

Report from Jill Kehaulani Esch, Esq.  
**Office of Ombudsperson for AMERICAN INDIAN Families**  
**November 6, 2023**

Report for the Period 8/3/2023 through 11/6/2023

**Duties of the Ombudsperson for American Indian Families**

The Ombudsperson for American Indian Families investigates complaints for non-compliance of the Indian Child Welfare Act, the Minnesota Indian Family Preservation Act, Tribal State Agreement, Minnesota Statutes, Court Rules and DHS Policies that involve child protection cases, including placement, public education and housing issues related to child protection that impact American Indian children and families. The Ombudsperson also collaborates with tribes, agencies, counties, community organizations, courts, schools, other organization and stakeholders to develop policies, rules and laws to improve outcomes for American Indian Families involved in the child protection system, as well as collaborating on prevention programs. The Ombudsperson is advised and reports to the American Indian Community-Specific Board, who are all appointed by the Minnesota Indian Affairs Council.

**Geographical locations of phone calls and emails**

Becker, Bemidji, Carlton, Cass, Cook, Detroit Lakes, Duluth, Fond du Lac Reservation, Grand Rapids, Hastings, Hubbard, Itasca, Leech Lake Reservation, Lower Sioux Indian Community, Mille Lacs, Minneapolis, Red Lake Nation, St. Cloud, St. Paul, Virginia, Washington, White Earth Nation, and States of California, Florida, Nevada, Georgia, Michigan, North Dakota, South Dakota and Wisconsin.

**Tribes**

Bad River Band of the Lake Superior, Bois Forte Band of Chippewa, Cherokee Nation, Cheyenne River Sioux, Choctaw Nation of Oklahoma, Constance Lake First Nation, Crow Creek Sioux Tribe, Fort Peck Tribes, Keweenaw Bay Indian Community, Lac Courte Oreilles, Leech Lake Band of Ojibwe, Lower Sioux Indian Community, Mandan, Hidatsa and Arikara Nation, also known as the Three Affiliated Tribes, Mille Lacs Band of Ojibwe, Northern Cheyenne, Oglala Sioux, Red Cliff Band of Lake Superior Chippewa, Red Lake Band of Chippewa Indians, Rosebud Sioux, San Carlos Apache Tribe, Santee Sioux, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, Standing Rock Sioux, Turtle Mountain Band of Chippewa Indians, Upper Sioux Community Pezihutazizi Oyate, White Earth Nation, Wintu Tribe of Northern California and Yankton Sioux.

**Some Issues from Cases for the Period of This Report**

- A CHIPS/Permanency case had been closed for over two years and the youth had been returned to his custodial parent and family where the youth is doing well. In October, the parent received a letter from the county that when the youth was in their care in a residential group home setting, the youth may have been maltreated. The county conducted an investigation and reported that while there was not a preponderance of the evidence to support findings of neglect -- inadequate supervision by staff, as well physical abuse by another staff - it was determined that maltreatment did occur against the youth by facility staff.
- Tribe reported that foster care providers were upset that children were being moved from their care and refused to allow children to take all of their belongings with them, stating, they (foster care providers) bought the children's belongings.
- In another case, county asked court to state in it's order that foster care provider was required to allow youth to take all of youth's personal belongings from foster care provider's home.
- Foster youths reported that their attorneys are not speaking with them before the court hearings.

- Foster youths reported that they were not receiving visits with their siblings.
- Foster youths' attorney said clients want to attend court hearings, but social workers said "No".
- Foster care providers reported that they attend the court hearings, but judges not calling on them.
- Relative foster care providers concerned that youth may not receive extended foster care benefits.
- Foster care providers not provided with clothing allowances and did not know they were entitled to receive clothing allowances until the information was provided by the Ombudsperson.
- County is completing the DHS MAPCY without input from foster care providers.
- Relatives are alleging that they submitted the paperwork to care for their young relatives, but counties not getting back to them on what the process is or if they are "on the list" as an option.
- Parents reported that county never asked if child/youth was American Indian.
- Relative foster care provider asked county numerous times to remove youth's listing from the Foster Care Network Adoption page, but listing is still there.
- Father was very motivated and willing to work his case plan, but according to father, county not willing to work with him.
- Tribe reported that county alleged that the father had been adjudicated through a signed Recognition of Parentage (ROP), although Tribe has never received the documentation. Tribe reached out to county numerous times over several months.
- On a confirmed ICWA case, when a tribe has not provided a Qualified Expert Witness Affidavit (QEW) or testimony, the county has a legal responsibility to secure the next best QEW in descending order:
  - a member of the child's tribe who is recognized by the Indian child's tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices; or
  - an Indian person from an Indian community who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and contemporary and traditional child-rearing practices of the Indian child's tribe.
  - If those efforts have not been successful, a party may use an expert witness, as defined by the Minnesota Rules of Evidence, rule 702, who has substantial experience in providing services to Indian families and who has substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Indian community.
- Provided information and resources for Third-Party Custody proceedings.
- Provided information and resources on Active Efforts to parents, relatives and parents' attorneys.

### **ICWA Education, Trainings and Continued Community Outreach**

- MUID Family Preservation Monthly Meetings and ICWA Education Weekly Planning Meetings.
- Citizens Review Panel Meetings for Hennepin and Ramsey.
- Children's Justice Initiative (CJI) Meetings around the State.
- Children Justice Advisory Task Force Meeting/Subcommittee Meetings.
- ICWA and Child Welfare trainings and webinars.
- Virtually observed court proceedings around the State.
- Tribal Legislative Work Group and other meetings to strengthen MIFPA.
- Various community events and provided information and resources about the Agency.

### **Feedback from the Community**

*Thank you for all you do for sooo many!* Tribal Leader, 8/18/2023