

ICWA 201

MCAA CHIPS Conference – September 2018

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American Indian Center (MAIC)

Mary Lynch, Asst. Hennepin County Atty and
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MINNEAPOLIS AMERICAN INDIAN
CENTER
TRIBAL LIAISONS

What is the role of the Tribal Liaison at the MAIC?
What does the MAIC, Tribal Liaison do?
Who are Valerie Berrard and Kelly Morgan?
Who is Charlene Day Castro?
What if my office is not in the Metro Area? Can I still call
Laura, Valerie or Kelly?

WHAT IS THE ROLE OF THE
MAIC TRIBAL LIAISON?

- The Tribal Liaison Program serves as a bridge between American Indian tribes from out-of-state whose tribal members are involved in the child welfare system, the court system, and the families themselves. Under ICWA, the tribes with which the Indian child is affiliated have a role in the proceedings, including providing recommendations on placements, providing assistance in finding relatives and others who might serve as resources for placement and other needs, among other things.
- Since it is difficult for tribes who are located outside of Minnesota to travel to the Twin Cities to appear at hearings for their families, the Minneapolis American Indian Center's Program helps fill a critical gap. With authorization from the tribe, MAIC's tribal liaisons appear in court, help convey the tribe's perspective and preferences to the court, and communicate what is going on in the court to the tribe and family. MAIC has standing authorizations from over a dozen tribes which have significant populations of tribal members living in the Twin Cities, and regularly get case-specific authorizations from dozens of other tribes each year. Without this assistance, the tribes would not be able to participate in these court proceedings, nor would they be able to help to ensure the best possible outcome for their children.

**LAURA NEWTON, VALERIE BERRARD
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**SERVICES THE
MAIC TRIBAL LIAISON PROVIDES**

- Attend court hearings and share information with the court from the tribe or family (with authorization from the tribe)
- Assistance to families with finding resources and services to complete their case plan
- Maintain communication with the tribal ICWA Program staff to keep them involved and up to date on the court schedule and actions
- Work with child protection workers on the substance of the case, including signing case plans for the tribe.
- Work with the child protection worker and the county attorney's office to get eligibility letters and Qualified Expert Witness affidavits.

CHARLENE DAY CASTRO

Case Management

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SERVICES THE MAIC ICWA CASE MANAGER PROVIDES

- **ICWA Case Management**
- The ICWA Case Management Project promotes and supports reunification among American Indian families entering the child protection system by providing intensive case management and coordination of resource services. The ICWA Case Manager works directly with American Indian families that are enrolled or eligible for enrollment in a tribe outside the state of MN. Families that are from in state tribes are referred to a partner organization that provides case management.
- **Services:**
- Attend court hearings and provide assistance to the family to understand the court proceedings
- Coordinate and collaborate with Hennepin County and Ramsey County and make recommendations for a realistic culturally specific case plan.
- Provide supports for the the family to engage in their case plan, working for family stability or a permanent plan for reunification.

TELL ME MORE ABOUT ELIGIBILITY

QEW TESTIMONY/AFFIDAVIT

- ❖ Pros and Cons of affidavits vs. testimony
- ❖ Drafting the QEW and sending to tribal liaison/representative
- ❖ In the Matter of the Welfare of S.R.K., 911 N.W.2d 821
- ❖ It is the obligation of the ACA to ensure that either the testimony or the affidavit of the QEW is sufficient. Make sure you give the tribal representative information on both parents in the case (i.e. disclosure, etc.) and that you discuss the testimony prior to trial.

WHAT TO DO??

- What to do when you haven't heard from a tribe of if you have a letter indicating that the child is eligible but the tribe is not participating/appearing at court either in person or via phone.
- What can ACAs do in these situations?
- Many tribes have a lot of demand for eligibility and participation and many tribes have very few resources.
- Building relationships is critical.
- Reach out to the MAIC and to other ACAs that handle ICWA cases frequently to find out what they do on their cases.

VOLUNTARY PLACEMENT AGREEMENTS IN ICWA CASES

WHEN TO USE A VPA

- Minnesota Statutes: 260C.227 and 260.765.
- Agency consult, including Jasmine Grika from the Ain Dah Yung Center in St. Paul, consultation with ACA
- The VPA must be signed by the custodial parent in front of a judge and certified by the judge
 - What Ramsey County started a year ago
 - What works in RC and what are some of the 'growing pains'
- There is no open court case or file
- Must track the timelines for the VPA internally within your office/Agency office
- AVPA is a placement. The child must be in a licensed (preferably relative) home.

VOLUNTARY PLACEMENT AGREEMENTS,
CONTINUED

- If child is not returned back home to the custodial parent within 90 days of the VPA being signed, then a petition must be filed by the 90th day.
- In Ramsey County, we check in with the CP worker on day 60 to see how the case is going and to see if we will need to file a petition or if the child will be going home in the next 30 days.
- Allow enough time to gather information and file the petition by the 90th day
- The out-of-home placement plan also needs to be filed with the court, along with the petition.

MORE ON VPAs

- Once the petition is filed, there are two choices,
 - You can ask the court to continue the voluntary for an additional 90 days
 - OR
 - You can ask for emergency protective care, and proceed forward that way (the "regular" way)
- Regardless of which way you proceed, the custodial parent only gets 60 additional days added to his/her permanency timeline.
- When it is not best to use a VPA (sexual abuse, physical abuse, uncooperative parent, etc.)
- The parent who signs the VPA can revoke at any time.
 - Must give the Agency 24 hours, written notice. (In RC, we don't require the revocation to be notarized or filed with the court.)

CONSENT TO ADOPT AND
VOLUNTARY TERMINATION IN ICWA
CASES

CONSENT TO ADOPT VS. VOLUNTARY TPR

- You must use a specific form for an ICWA Consent to Adopt or an ICWA Voluntary TPR. Both must be signed in front of a judge, on the record, and certified by the judge.
- An ICWA Consent to Adopt can be revoked by a parent any time prior to the final adoption hearing. This is because with a Consent to Adopt, parental rights are not terminated until the final adoption hearing. 25 USC 1913(c) "...the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, ...and the child shall be returned to the parent."
- An ICWA Voluntary TPR is essentially the same as a non-ICWA TPR, with the exception of needing a different form and having the judge certify the parents' consent to the voluntary TPR.
- A QEW is not needed for an ICWA Voluntary TPR or a Consent to Adopt.

ADDITIONAL RESOURCES

MCAA Website and ICWA Subcommittee
 Other ACAs that handle ICWA Cases frequently
 Kate Fort, Turtle Talk Blog
 NARF (Native American Rights Fund)

"While federal cases take a lot of the attention and use anecdotes to make broad anti-ICWA arguments, day-to-day ICWA practice involves families in crisis and need!" (Kate Fort)

LETS PUT OUR MINDS TOGETHER AND SEE
 WHAT LIFE WE CAN MAKE FOR OUR
 CHILDREN.

-Sitting Bull
 Questions?
