



ADYC Compliance Newsletter

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By Sadie Hart, ICWA Compliance Monitor

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ICWA Guardian ad Litem Program: Advocating for Indian Children

Over the past few years, the Minnesota Guardian ad Litem Program has implemented an ICWA division to hire and train specialized guardians for child protection cases governed by the Indian Child Welfare Act (ICWA) and the Minnesota Indian Family Preservation Act (MIFPA). We interviewed Lynn Brave Heart, the State ICWA Division Program Manager for the Guardian ad Litem Program, to learn more about the program and how ICWA Guardians ad Litem are impacting American Indian child welfare throughout the state.



“The ICWA division of the Guardian ad Litem Program began in 2019 when we started trying to figure out what to do about statewide ICWA disproportionality and the out-of-home placement rate for Native kids. We’re the highest in the nation for those out-of-home placement rates and we thought that we could form an ICWA division that was statewide and hire ICWA specific guardians to work regionally throughout the state. We hired strategic planners from Indigenous Collaboration and went through four days of strategic planning with them. We also did a survey from stakeholders to give us ideas and to hear feedback about how they see the Guardian ad Litem Program and ICWA which informed our strategic planning. We were able to come up with a vision statement, mission statement, and then based on those ideas we went into the strategic planning with priorities and goals.”

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The mission statement, “we are committed to advocating for the best interests of American Indian children by persistently applying ICWA and MIFPA to preserve American Indian families and culture,” is a constant presence in the work they do. Lynn noted that “we had a two-year implementation plan, a five-year plan, and then a 10-year vision plan and we’ve blown all our goals out of the water in a short amount of time.”

“The biggest idea everybody shared was getting more ICWA Guardians ad Litem, those guardians being from our communities or at least strong allies and having an understanding and familiarity with the American Indian communities that we serve, the families that we work with, and the children that we work with. Two years ago, we started this process and now we have an ICWA Coordinator in every district. There are a lot of challenges that we must overcome but we’re working on it – staffing and how much we are able to pay are always a challenge.”

ICWA training has also been a top priority. “We worked with the University of Minnesota Duluth and the Tribal Training and Certification Partnership to create our four-day training. In our training the content is intense. We do an experiential blanket exercise that was adapted by the Ain Dah Yung Center and people are blown away.”

ICWA Guardian ad Litem Program (Continued from page 1)

“There are tears, there’s a lot of processing, and a lot of feelings about that because they are going through being removed from the blankets that represent the land/home, getting moved around, and at the same time there’s an interactive piece. A lot of people, especially non-Native people, say they feel angry that they haven’t been taught this history.”

“We also have our policy and procedure manual and our ICWA and MIFPA court report. The manual stresses that the best interest of Indian children is interwoven with the child’s tribe because there’s that cultural value that children are our greatest asset - they ensure the future, and we want to connect them to culture. A lot of our ICWA guardians are Native and are tribal members from different tribes around the state and out-of-state, and they bring cultural knowledge. We’re doing mock recommendations and mock hearings so that the guardians understand what we are expecting of them, to not just sit there and say ‘I don’t know’ or ‘I agree’ - you must get up and at least reiterate the recommendations that you have on your report. We want you to be fighting and holding the parties and even the judge accountable for ICWA and that is hard.”

For the most part, Guardians ad Litem appear in court unrepresented. “It’s intimidating to be a guardian and voice your opinions, especially when they differ from social services. Some judges will even forget that we are sitting at the table and that’s when the guardian must speak up and that’s why we need people who are well-trained and won’t let that happen to them.” When in-court support is needed, Jody Alholinna, the ICWA Staff Attorney for the Guardian ad Litem Program, will appear with the guardian. But as the sole ICWA Staff Attorney, Jody is “not only working on our ICWA and MIFPA cases, but she’s also doing the higher-level Supreme Court work, advocating for ICWA, being in work groups on MIFPA and the Tribal State Agreement, and helping to train on ICWA.” In addition to Jody and Lynn, guardians are supported by ICWA Coordinators. “All the ICWA Coordinators are really good at providing case consults every week, Jody is available, and I am here, and we’ll jump in to consult on a case immediately - I’ll drop everything I have to do to support a guardian and help them with their recommendations, or answer questions.”

ICWA Guardians ad Litem work with children, families, and tribes to provide independent reports to the court about the best interests of the Indian child. “There was a culture for a while where guardians didn’t have to talk to parents or the family, or maybe we’d just check in and leave a message for the tribe. But now we’re engaging them and asking them about the Qualified Expert Witness, or what are the Tribe’s placement preferences, what kind of cultural services can a tribe recommend or provide. We want to be a good ally to tribes.”

“We automatically assume the family is being reunified – the foster parents aren’t the preferred permanency option.”

“We also focus on reunification as early as possible, so that’s where working with the parents comes in and approaching the case with a strength-based lens. The goal is reunification and family preservation. We automatically assume the family is being reunified – the foster parents aren’t the preferred permanency option. We defer to the tribe as much as possible, unless we have some information that they don’t know about that is a huge safety concern, then we share that with them and go on a home visit with them and try to have that communication before court.”

“The way the general child welfare system has been working is that removal to stranger foster care is the best way to address safety. At times this is necessary of course, but we advocate that placement with relatives must come first and after the emergency is over that kids get to go home. Case planning has been a practice of moving the goal post – families don’t know what they must do to reunify because every time they come back to court something is added to their case plan or they must do this for a couple more months before we can send your child home. We are trying to change the culture of that. If those imminent physical damage and harm factors are mitigated let’s send the child home and provide a lot of resources and services to the family or supporting them while they are still together instead of keeping kids out of home for long periods of time. The other way is not working – it hasn’t worked.”

***ICWA Initiative Mission Statement:
“We Are Committed to Advocating
For The Best Interests of
American Indian Children By
Persistently Applying ICWA &
MIFPA to Preserve American
Indian Families and Culture.”***

ICWA Guardian ad Litem Program (Continued from page 2)

“With the active efforts piece, we can think out-of-the-box and recommend things like the use of safety plans to keep families together safely, help explore relatives for placement, ask the court to order cultural services such as horse therapy, or provide money for the family to go to a pow wow out of state or go to a ceremony. One time when I was an ICWA guardian the grandmother needed to get the kid to her therapist, ballet, school, take her to swimming, and all their cultural activities and events but their van broke down. The grandmother was court ordered to make sure the child was doing all these activities and she needed transportation and couldn't get to all the places on the bus, and so the judge ordered the department to pay for the repairs to her van.”

ICWA Guardians ad Litem are assigned to cases in multiple counties or need to travel throughout the state to visit kids living on reservations. “In a lot of non-ICWA cases the kids are still in the area that you're working in. When we have folks assigned across different districts it's like we don't have an opportunity to inform the court of the barriers we face. So, we really need to do more outreach about that and have some education for court administration and judges, to allow us to attend virtually and understanding that we can't be in two places at once – it's a challenge that we're going to have in the future and we're already having. It's hard enough and intimidating enough just to know one court system and process but having to know multiple counties and districts is hard. It also depends on how well judges are trained on ICWA and MIFPA – sometimes our guardians are the experts in the room, especially in small counties that don't have many ICWA cases.”

“Instead of constantly responding to families in crisis, which is often due to historical trauma and racism, how do we make the system better?”

A future goal is to be more proactive within the child welfare system.

“Instead of constantly responding to families in crisis, which is often due to historical trauma and racism, how do we make the system better? What we talked about in our strategic planning is when we're able to have enough capacity to advocate for other systemic changes that are intersecting with our families, like employment, education, housing, and all those barriers that really make it hard for our Tribal families to live. Those life stressors are so hard - how can we help the community to create healing places or to alleviate these intersectional barriers that our families face?”

“I think that's really a pie in the sky goal, but it's the reason why our families are more visible in child protection. When you look at all their barriers it's always related to historical trauma and events that have happened to our families - including myself. I was in foster care and aged out at 18, my mom was taken from her reservation when she was four and placed into a white adoptive home and was part of the Indian Adoption Project herself. That disconnection to our own family - we want to be able to reconnect our families to that culture and to provide resources for healing that's not just putting band aids on.”

One of the biggest barriers for the program is the need for increased pay for Guardians ad Litem. “It breaks my heart how much we pay guardians and expect from them, especially how specialized it is for ICWA guardians. We are asking a lot from ICWA guardians. I think we have some compassionate and passionate ICWA guardians out there right now that are doing this work because it's the right thing to do. Those cultural things are way outside of their job description but sometimes are way more important than just knowing how to follow ICWA and MIFPA. The way I think we're seeing ICWA guardians' impact is that they are focusing on the goal of reunification and family preservation through application of the provision of ICWA and MIFPA, that's what we've been training to do. One ICWA Guardian in the 6th District has had all but one of their cases close with successful reunification. It was the Guardians' ICWA advocacy that really helped drive those cases.”

One goal is to be able to demonstrate the positive impacts ICWA Guardians ad Litem are making. “We want to be able to evaluate our program so we can provide reports to the community because that's who we are ultimately accountable to. We want quantitative and qualitative data, the storytelling piece of what guardians did that was special on a case, like when a guardian helped reunify the family. We're seeing it happen, but we can't measure it yet. We're going to continue doing our strategic planning and trying to be proactive instead of reactive to the system, so really being experts in Indian child welfare and dreaming about a way to constantly do things better for families.”

ICWA Guardian ad Litem Program (Continued from page 3)

In the future Lynn hopes that the Guardian ad Litem Program can offer their own cultural services or programs or a consultant that families can reach out to because that piece is often overlooked. "The Ain Dah Yung Center has always done a great job bringing kids to sweat and having ceremonies, and not only do our staff need that to support them, but also the kids and the parents that we work with, especially people who are in the city and live in poverty - they don't have any way to get out to the reservation to go to a ceremony. It's hard even in the city if they're going to a suburb for ceremony for that transportation piece and daycare."

"When I worked at Minnesota Indian Women's Resource Center a lot of women I worked with knew what tribe they were and where it was but had never gone to the reservation and never been connected to family members because of boarding schools, the Indian Adoption Project, and termination era policies that removed them from their heritage. The historical trauma piece is a huge issue, and the cultural resources are needed to address it. There's a lot of people who haven't gone to a ceremony and once they go it's healing, and I wish we had more access to that."

Lynn hopes to see ongoing training for justice partners to ensure the spirit of ICWA is followed in the future. "ICWA and MIFPA are like a language that must be used and if you don't constantly speak the language of ICWA, things can get left out and that's not in the best interest of Indian children, our tribes, or the future Native families. Judge William Thorne always says that ICWA was a form of reparation to Native people because of forced removals, boarding schools, the Indian Adoption Project, and that we need to know that history, too. So, I would recommend getting to know the tribes, especially those within Minnesota, or the ones that are close to you, and try to understand the history."

"Go to a pow wow or a Native event so you get more comfortable - or even out of your comfort zone - and experience the culture."

"There's a lot of resources. Go to a pow wow or a Native event so you get more comfortable - or even out of your comfort zone - and experience the culture. The buzzword used to be cultural competency, but we all know nobody is ever going to be 100% competent on somebody else's culture. But cultural humility is very much a Native value and a lot of our core beliefs and values are about having humility and knowing that you don't know everything and it's okay not to know everything - it's okay to be in a position of power and to recognize that you don't have the answers but you're going to the best of your ability learn and grow, have respect, and

make good decisions based on the experts that are in the room, especially if they're Indigenous people that are coming from that culture. It's really listening with your heart."

Miigwech to Lynn Brave Heart for answering our questions and we look forward to seeing the Guardian ad Litem ICWA Division grow throughout the state!

Free ICWA Under Attack Event

On October 27th from 6 p.m. to 8 p.m. the Metropolitan Urban Indian Directors Family Preservation Subcommittee will host a free community event entitled "ICWA Under Attack." Presenters will discuss the legal challenges to the Indian Child Welfare Act in the *Haaland v. Brackeen* case before the Supreme Court and the efforts in Minnesota to strengthen the state Minnesota Indian Family Preservation Act (MIFPA) and how to ensure the protection of Indian children and families.

The event will be in person at the Minnesota Indian Women's Resource Center (2300 S 15th Ave, Minneapolis, MN 55404) and virtually on Zoom and Facebook Live. A meal will be served at 5:30 p.m. for those attending in person at the Minnesota Indian Women's Resource Center. Everyone is welcome!



If you are interested in attending please register for the free event here: <https://www.eventbrite.com/e/409907864457>

Liaison Lowdown: Protecting Our Future Generations

By Laura LaPlante

Our Medicine Man, Agnaiyanka, told us on numerous occasions, “there would be a time when the People would be challenged.” It was a mantra that would weave its way through ceremony. Providing the impetus for dancers and supporters alike to pray harder, dance harder, focus harder, and walk away knowing we had to keep his words at the forefront of our thoughts. Especially, in our actions as we moved back into our communities and daily lives of living and serving.

How fortunate I was to hear these words for years out of Agnaiyanka. Today, his words could not ring truer. The threat for Tribes to continue to practice their inherent sovereign rights over the welfare of their relatives in child welfare is a very real and a menacing possibility, as evident by the *Haaland v. Brackeen* case; with oral arguments to be held on November 9, 2022, by the U.S. Supreme Court. The intentions of ICWA and its protections could not be more threatened than if someone were to come at us personally. Threatening and questioning the very existence of who we are as individuals, but also as recognized members of Tribal Nations with the inherent right to govern the welfare of our own children.

It is important to stay aware. Paying attention to the individuals, agencies, and political factions who would want to knowingly dismantle one of the most critical laws meant to protect our future generations. In Minnesota we are lucky to have the Minnesota Indian Family Preservation Act (MIFPA) which enhances the protections of ICWA. It is important to know that should the dismantling of ICWA occur, we will still have MIFPA to protect the sovereign rights of the Tribes and future generations. And like all things, there are wonderful, very passionate individuals committed to making sure this happens.

The immediacy of this threat calls for all of us to be hypervigilant in protecting the best interests of our American Indian families and relatives. On Thursday, October 27th, 2022, from 6 p.m. and 8 p.m. (dinner served at 5:30 p.m.) the Family Preservation Subcommittee of the Metropolitan Urban Indian Directors (MUID) will be hosting an event apprising the community of the issues surrounding the *Haaland v. Brackeen* case. More details are on page 4. I look forward to sharing this especially important and informative session with all of you. More information about this case and how to support ICWA can be found here: <https://www.nicwa.org/> and <https://www.ncai.org>.

Miigwech, Pilamayaye, Pidamayaye,
Laura LaPlante, Nokomis Circle Family Liaison

Court Updates

The ADYC Compliance Newsletter includes positive observations from ICWA hearings as well as highlights that demonstrate the great work happening in Ramsey County.

Observation: The mother is finishing outpatient treatment, has a part-time job, will be moving into a new home soon, and has been having frequent visits with her children. The court commended her for all of her hard work.

Observation: The proposed custodian indicated that Social Worker Rose White Temple has been a pillar of support in providing resources to allow her to care for the child.

Observation: The youth's attorney noted the good work of social worker Kurt Marsh and Guardian ad Litem Gabby Ramos when working with her client to find an education plan that works best for him instead of rushing to complete a program that does not suit his needs.

Observation: The social worker Claudia Nicolosi and Guardian ad Litem Briana Banks noted they were impressed by the mother's communication and forward thinking towards reunification, including buying a toddler bed for her son. The mother noted that her recent relapse gives her more motivation to do everything she can to reunify with her son.

Observation: When requesting a trial home visit, Social Worker Kurt Marsh noted the mother's work on the case plan, that she frequently visits her child, and the love she demonstrates during those visits. The mother indicated her thanks to the social worker for his hard work in helping her in this process.

About the Quarter 3 Data

Data was collected from July 1, 2022 to September 30, 2022. This data was collected by the court monitor at hearings, talking to the parties involved, and reading case files. This data reflects hearings the court monitor attended and does not include all Ramsey County ICWA hearings.

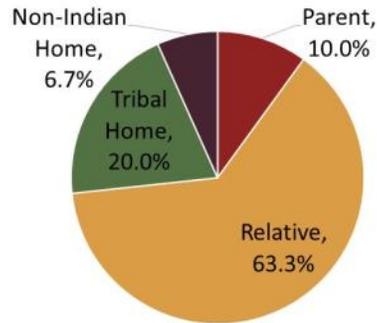
Tribal Attendance

The following chart indicates the tribes involved in ICWA cases in Ramsey County during Quarter 3. The chart includes the tribes involved, the number of hearings that occurred, and the number of times the tribe attended hearings. This data reflects hearings the court monitor attended and does not include all Ramsey County ICWA hearings.

TRIBE	NUMBER OF HEARINGS	TRIBE PRESENT
Bad River Band of the Lake Superior Tribe of Chippewa Indians	6	5
Cheyenne River Sioux Tribe	5	5
Ho-Chunk Nation	1	1
Lac Courte Oreilles Band of Lake Superior Chippewa Indians	3	2
Leech Lake Band of Ojibwe	2	2
Lower Sioux Indian Community	4	3
Mandan, Hidatsa, and Arikara Nation	1	1
Mille Lacs Band of Ojibwe	3	3
Oglala Sioux Tribe	2	2
Red Cliff Band of Lake Superior Chippewa	1	1
Red Lake Nation	4	3
Standing Rock Sioux Tribe	1	1
White Earth Nation	5	5
Unknown*	11	-

Placement

Parent	3	10.0%
Relative	19	63.3%
Tribal Home	6	20.0%
Non-Indian Home	2	6.7%
Grand Total	30	



Placement

During Quarter 3 children were placed with custodial or non-custodial parents 10% of the time, with relatives 63.3% of the time, and in tribal homes 20% of the time. Tribal homes include homes that have been approved, specified, or licensed by the tribe.

There was discussion about placement preferences 87.5% of the time. This discussion included why the child could or could not be returned to the parent or why the child was placed in a specific home.

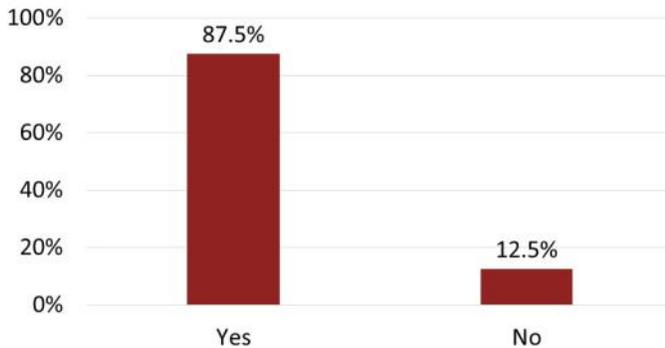
Two children were placed in non-Indian homes outside of ICWA's placement preferences. At each of those hearings the court found that there was good cause to deviate from ICWA's placement preferences due to the preference of the parent. One mother expressed her desire that, rather than move the child to live with family in a different state, the child remain close to allow for ample visitation.

When the child was not placed with a relative there was discussion 37.5% of the time regarding the reasons for the non-relative placement and strategies to move the child to a relative placement.

When the tribe was present at the hearing they agreed with the agency's placement recommendations 100% of the time.

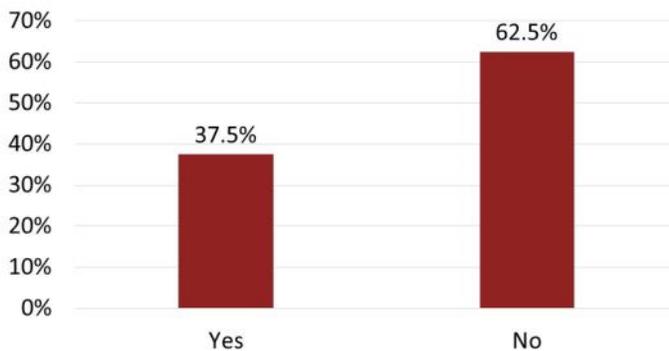
Was there discussion on the record of placement preferences?

Yes	21	87.5%
No	3	12.5%
Grand Total	24	



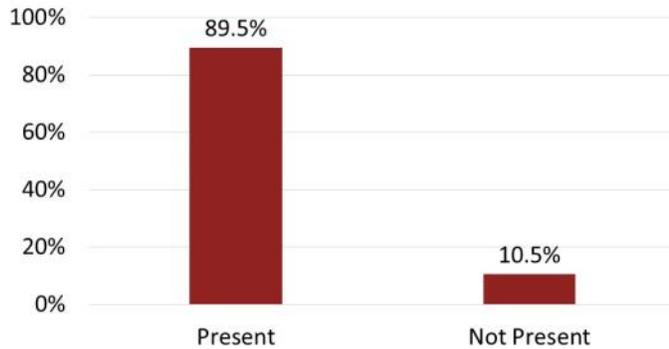
Was there discussion on the record as to why the child was not placed with a relative?

Yes	3	37.5%
No	5	62.5%
Grand Total	8	



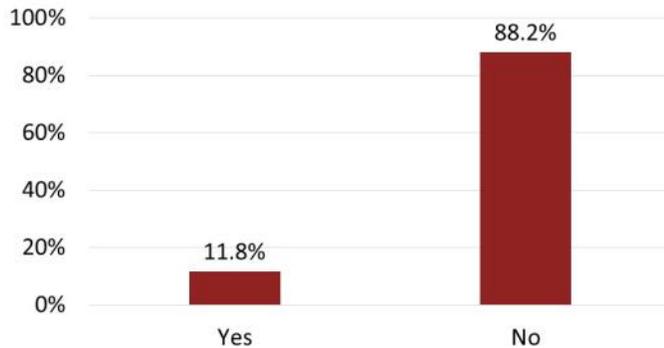
Attendance of Tribes (when identified)

Yes	34	89.5%
No	4	10.5%
Grand Total	38	



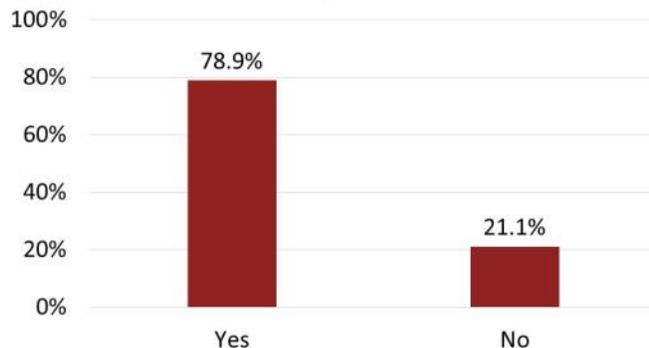
When the tribe was present, was there discussion of how the tribe has been involved in locating relatives as a resource for the child?

Yes	4	11.8%
No	30	88.2%
Grand Total	34	



When the tribe was identified, was there discussion of how the tribe has been involved in case planning?

Yes	30	78.9%
No	8	21.1%
Grand Total	38	



Tribal Involvement

During Quarter 3 tribal representatives, including social workers, attorneys, and liaisons, were present at 89.5% of hearings.

When the tribe was present there was discussion of how they were involved in locating relatives as a resource for the child 4 times. This included relatives for potential placement as well as to increase the child's support system.

This discussion also included the tribe completing tribal kinship searches to supplement the agency's kinship search.

When the tribe was identified there was discussion about their role in case planning and case involvement 78.9% of the time. This involvement included joint home visits, consultations, and identifying tribal and cultural services for the family.

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