

PARTNERING WITH TRIBES TO ACHIEVE PERMANENCY FOR INDIAN CHILDREN

Hon. Anita Fineday
White Earth Tribal Court

1997 - THE WHITE EARTH TRIBAL COURT WAS FORMED

- ◉ We started with a blank slate and needed some laws to follow- court had been hearing conservation cases only.
- ◉ Less than 50 cases per year were heard prior to 1997.
- ◉ White Earth Judicial Code enacted in 1997 which greatly expanded the jurisdiction of the court.
- ◉ Last year the court opened 1100 new cases and held more than 1500 hearings.

TRIBAL COURTS CAN PROVIDE CULTURALLY APPROPRIATE SERVICES NOT AVAILABLE IN STATE COURTS

- ◉ Tribal courts may use different criteria in making decisions about their children.
- ◉ Tribal courts may use different procedures than those used in state court.
- ◉ Here are some examples:

THE BEST INTERESTS OF THE TRIBE IS ALWAYS WEIGHED WHEN MAKING DECISIONS ABOUT THE TRIBE'S CHILDREN

- “Best interest of the Tribe” is defined as a variety of factors including but not limited to the ability of the tribe and its members to provide for the child; the ability of the tribe and its members to provide for the continuation of the tribe's culture, language, history, religion, traditions and values through its children if those children are taken away and not taught these things throughout their daily lives.

THE ABILITY OF THE TRIBE TO CONTINUE AS A PEOPLE IS A KEY COMPONENT IN DECISION MAKING

- ◉ *Best Interest of Tribe continued. . .*

The ability of the Tribe to continue as a viable cultural entity throughout their daily lives. The ability of the Tribe to continue as a viable cultural entity will be hindered by the loss of its children. Every child is a gift from the creator and is viewed by the Tribe as crucial to the future of the tribe as a whole.

SUSPENSION OF PARENTAL RIGHTS - CULTURALLY APPROPRIATE SERVICES

If the court determines that it is in the best interests of the child and the child's tribe, it shall issue a final order for a suspension of parental rights. Such an order for the suspension of parental rights may include, but is not limited to, the following:

SUSPENSION OF PARENTAL RIGHTS

- ⦿ A permanent suspension of the parental rights of the parent including the suspension of the right to the care, custody and control of the minor child allowing the child to be adopted;
- ⦿ A permanent suspension of the right of the parent to have contact with the minor child including contact in person, by mail, by telephone or through third parties or the order may allow for a contact agreement agreed upon by the parties to be ordered by the court;

SUSPENSION OF PARENTAL RIGHTS

- ⦿ The suspension of parental rights does not sever or affect in any way a child's relationship to his/her tribe or any rights to inheritance from the biological parent(s);
- ⦿ Shall contain a statement regarding why it is in the best interests of the child and the child's tribe to enter this order;

SUSPENSION OF PARENTAL RIGHTS

- ◉ Final orders for the suspension of parental rights may be reviewed by the court at the request of the biological parent, the agency or agencies possessing custody of the child only if one of the following occurs:
- ◉ If there is no final permanency order in effect after a period of one (1) year after the entry of the final order suspending parental rights;
- ◉ The adoption of the child fails;
- ◉ Notice of this review shall be provided to all parties to the hearing at which the final suspension of parental rights order was issued.

CUSTOMARY ADOPTIONS

- ◉ We have completed more than 250 customary adoptions in White Earth Tribal Court.
- ◉ We complete adoptions for many different tribes.
- ◉ Our customary adoptions are recognized by all federal, state and local agencies and the adoptive parents receive adoption subsidies if they qualify-but this was not always the case.
- ◉ The State of California has now adopted legislation modeled after our customary adoptions.
- ◉ One full-time and on part-time position is funded by this work through contracts with the State of Minnesota.

FETAL ALCOHOL SPECTRUM DISORDER

- ◉ We knew we had a problem-but really how bad was it?
- ◉ We had no comprehensive way to measure the impact of FASD within our reservation.
- ◉ So we decided we needed to apply for a grant to find out how bad our problem is.
- ◉ Thanks to our good friend at UND, Dr. Larry Burd, we formed: the White Earth Reservation Tribal Court FASD Diagnosis and Intervention Initiative.

SAMHSA FASD GRANT AWARDED 2008

- ◉ When this grant was advertised we jumped at the opportunity-I have traveled to many trainings in order to maintain this grant.
- ◉ Five year grant-total \$598,018 ends May 31, 2012.
- ◉ Covers children ages 0-7.
- ◉ We are the only tribe in the U.S. funded for this project.

SAMHSA FASD GRANT AWARDED 2008

- This work is now managed by the Health Division but Judge Fineday remains named as the Principal by our contract.
- We received this grant in part because our contractor Northup-Grauman saw that Judge Fineday was a graduate of the Kennedy School at Harvard and due to this institution's excellent reputation for government management.
- The Health Division plans to make this program self-sustaining by billing for these services.

OJJDP 2008 TRIBAL YOUTH PROGRAM GRANT

- The second Piece of our FASD Program.
- Three year \$500,000 grant ends Sept. 30, 2013
- Covers children ages 8-18.
- So far 110 children screened 14 screened positive for FASD.
- We are the only tribe in the country receiving this funding .
- This grant is also now housed in the health Division.
- This grant will become self-sustaining through billing for services.

FAMILY DEPENDENCY TREATMENT COURT

- Drug Court model - applies to child protection cases.
- This grant is funded by the MN Department of Public Safety for \$180,000 for three years.
- Judge Fineday travels to St. Paul quarterly to attend the State of MN-Drug Court Initiative State advisory board meeting.
- We are the only Tribe in the State of MN to receive this funding and operate an FDTC.
- It is anticipated that this funding will continue - it is federal funding passed through the state.
- This funding pays for one full-time position- there is a tribal match.

COURT TEAMS FOR MALTREATED INFANTS

- “Zero to Three” national non-profit organization.
- Judge Fineday attended advisory council meeting April 2010 after receiving invitation.
- Judge Fineday attended meetings at U.S. Capitol regarding passage of this legislation.
- The White Earth Tribal Court has an earmark in this legislation along with 11 other court teams.
- White Earth is the only court in MN attempting to get this legislation passed.
- This federal funding will pay for one full-time court manager for the court team.

WHITE EARTH TRIBAL COURT

- ◉ We have seen huge increases in case loads from less than 50 cases per year to more than 1000.
- ◉ We opened 1080 new cases in 2009-many of these cases stay open for many years.
- ◉ We held more than 1500 hearings in 2009
- ◉ The Court travels to Minneapolis and Fond du Lac as a service to our tribal members who reside in those areas. Our travel budget has been cut consistently.

WHITE EARTH TRIBAL COURT SEEKS TO WORK WITH COUNTIES AND STATES

- Cases must be brought to the attention of the tribe early in order for these services to be provided in a timely fashion.
- White Earth ICW seeks to work cooperatively with the counties and states to achieve better outcomes for our children.
- White Earth ICW often has more knowledge about extended family members.