

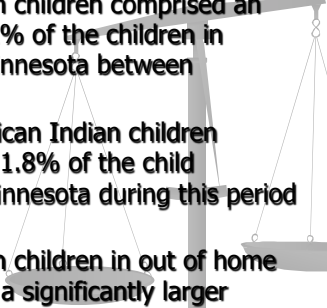
White Earth Band of Ojibwe

Customary Adoptions




Disparity

- American Indian children comprised an average of 11.2% of the children in placement in Minnesota between 1994-1998
- However, American Indian children comprised only 1.8% of the child population in Minnesota during this period of time.
- American Indian children in out of home care comprised a significantly larger

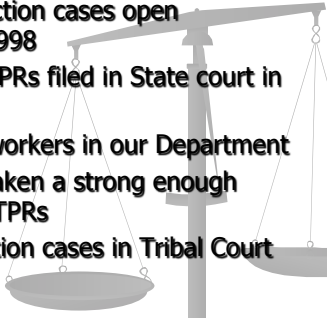


- Percentage of the total children in care than their proportion in the State population; reflecting still a significant disparity of American Indian children in placement.



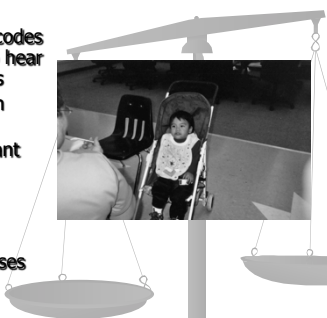
Impact on White Earth in 1998

- 205 child protection cases open nationwide in 1998
- 28 cases with TPRs filed in State court in 1998
- 3 ICWA social workers in our Department
- Tribe had not taken a strong enough stance against TPRs
- No child protection cases in Tribal Court yet



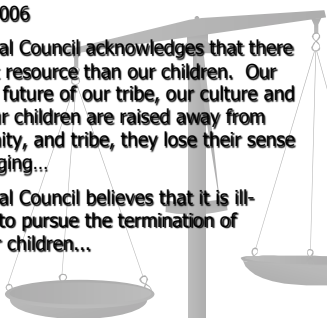
First Steps

- Spoke to the elders
- Established juvenile codes in our Tribal Court to hear child protection cases
- Hired a new Adoption Coordinator
- Sought additional grant funding and billing mechanisms
- Obtained attorney services
- Transferred ICWA cases into our Tribal Court



Tribal Council Resolution

- 064-00-007; 064-00-006
- The White Earth Tribal Council acknowledges that there is no more important resource than our children. Our children are the very future of our tribe, our culture and our way of life. If our children are raised away from their family, community, and tribe, they lose their sense of identity and belonging...
- The White Earth Tribal Council believes that it is ill-advised social policy to pursue the termination of parental rights of our children...



Customary Adoption

- A customary adoption, while legalized by the tribal court, closely resembles tribal tradition and customary child rearing practices of the White Earth Band of Ojibwe. While the Tribal community has not historically practiced or adhered to the policy of terminating parental rights,

- the tribal community has historically adopted children by tribal custom and ceremony. A customary adoption is a blend of historical tribal adoption practices and current necessary legal practices, whereby such adoptions are legally recognized.

- A customary adoption allows for a party vested in the care, control and responsibility of a child, to legally assume the parental role for a child. It grants the rights formerly held by the biological parent, to the adoptive parent.

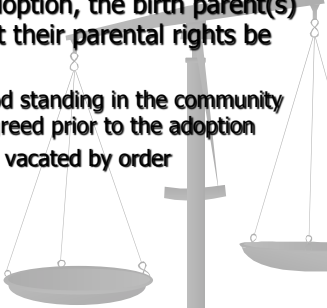
- A customary adoption grants the adoption of a child who is in need of a permanent home when the child's parent is unwilling or unable to appropriately perform the parental responsibilities.

Suspension of parental rights vs termination of parental rights

- Suspension of parental rights means the birth parents are no longer entitled:
 - To provide for the care, custody, and control of the named child
 - To receive notice regarding any proceeding involving the named child
 - Participate in any decision regarding the named child


A window for the parents to have their parental rights reinstated again in Tribal court.

- With a Tribal Adoption, the birth parent(s) can request that their parental rights be reinstated if:
 - They are in good standing in the community and this was agreed prior to the adoption
 - The adoption is vacated by order






First Steps

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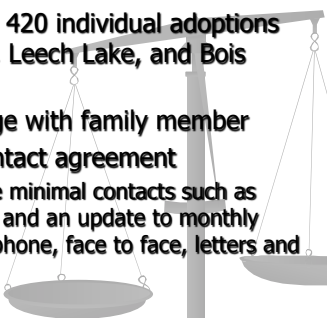

“Customary Adoption”

- Open adoption code
- Records kept on site
- Traditional adoption ceremony
- No more TPR's
- Go back to our tradition
- Always practiced adoptions
- Never practiced TPR's
- Traditional ceremony with no termination, authorized by the court, recognized by Federal and State governments

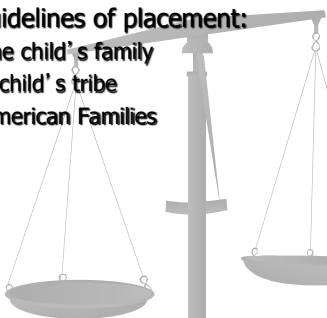



White Earth Adoption Program

- Completed over 420 individual adoptions for White Earth, Leech Lake, and Bois Forte.
- Large percentage with family member
- 98% have a contact agreement
 - Agreements are minimal contacts such as annual pictures and an update to monthly contact by telephone, face to face, letters and gifts.

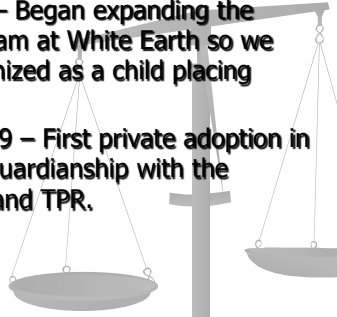


- Follow ICWA guidelines of placement:
 - A member of the child's family
 - Member of the child's tribe
 - Other Native American Families



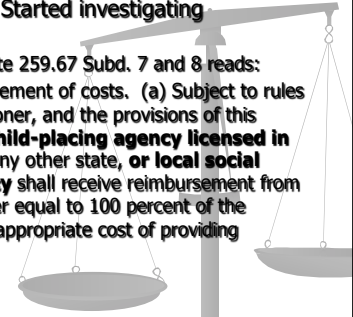
White Earth Adoption Program

- January, 1999 – Began expanding the Adoption Program at White Earth so we could be recognized as a child placing agency
- November, 1999 – First private adoption in Tribal Court. Guardianship with the Commissioner and TPR.



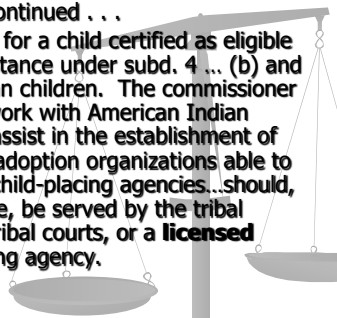
Contracting for Services

- January, 2000 – Started investigating Contracting
 - Minnesota Statute 259.67 Subd. 7 and 8 reads: Subj 7 Reimbursement of costs. (a) Subject to rules of the commissioner, and the provisions of this subdivisions **a child-placing agency licensed in Minnesota** or any other state, **or local social services agency** shall receive reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing



Tribal Contracting for Services

- MN stat 259.67 continued . . . adoption services for a child certified as eligible for adoption assistance under subd. 4 ... (b) and (c). Subj. 8 Indian children. The commissioner is encourage to work with American Indian organizations to assist in the establishment of American Indian adoption organizations able to be licensed as a child-placing agencies...should, whenever possible, be served by the tribal governing body tribal courts, or a **licensed Indian child-placing agency**.



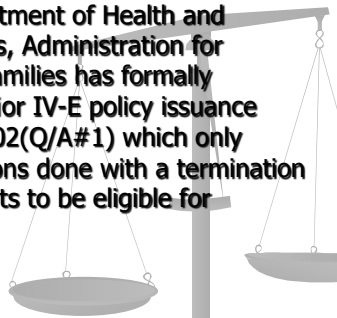
Contracting with a county

- January, 2000 – Contracted with County only – Wadena
- April, 2000 – Transfer of case from County District Court to Tribal Court

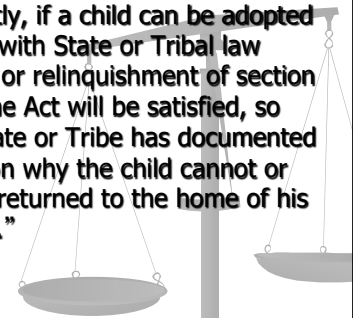


IV-E Adoption Assistance Funding

- The U.S. Department of Health and Human Services, Administration for Children and Families has formally withdrawn a prior IV-E policy issuance (ACYF-PIQ-89-02(Q/A#1) which only allowed adoptions done with a termination of parental rights to be eligible for subsidy...



- "...Consequently, if a child can be adopted in accordance with State or Tribal law without a TPR or relinquishment of section 473(c)(1) of the Act will be satisfied, so long as the State or Tribe has documented the valid reason why the child cannot or should not be returned to the home of his or her parents."



MN Department of Human Services

- April, 2001 – Met with DHS regarding customary adoptions
- May, 2001 – Children placed in Michigan through ICPC process. Guardianship with Tribal Court
- July, 2001 – Working with DHS regard contracting

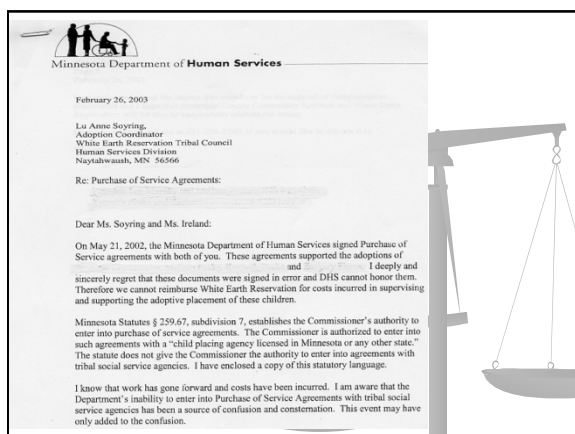
- October, 2001 – Transferred case involving ICPC with North Dakota to Tribal Court to do a SPR
- February, 2002 – Met with DHS regarding Contracting

Contract for Services

- March, 2002 – First contract for Services signed with Hennepin County
- May, 2002 – North Dakota would not follow the children with subsidy if Tribal Court took jurisdiction
- May, 2002 – Contract for Service Agreements with Hennepin County signed by DHS

Customary Adoption and State subsidy

- June, 2002 – Meeting with DHS regarding Tribal Court and adoption assistance
- October, 2002 – First customary adoption with a State adoption subsidy completed in Tribal Court - Child IV-E eligible under the guardianship of the Tribal Court
- February, 2003 – Received letter from DHS withdrawing original agreement to contract with Tribe

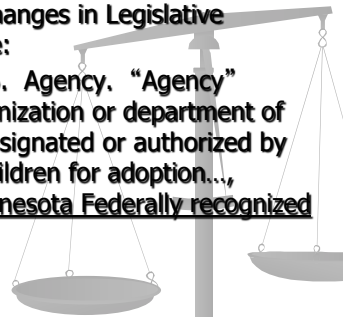


Purchase of Service Contracts

- March, 2003 – Recruited support at DHS and Attorney General's office regarding contracting
- March, 2003 – Met with DHS and the Attorney General of Minnesota regarding contracting. Attorney General approved legislative language changes
- June, 2003 – Received payment from DHS for our first Contracts

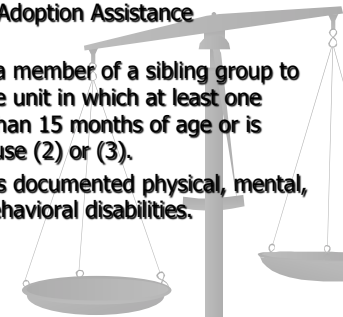
Tribal Adoption Agency Adoption Assistance

- July, 2003 – Changes in Legislative language made:
259.21 Subd. 6. Agency. “Agency” means an organization or department of government designated or authorized by law to place children for adoption..., including a Minnesota Federally recognized tribe.



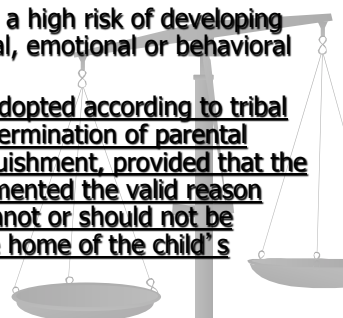
Adoption Legislation

- 259.67 Subd. 2 Adoption Assistance Agreement . . .
(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).
(2) The child has documented physical, mental, emotional, or behavioral disabilities.



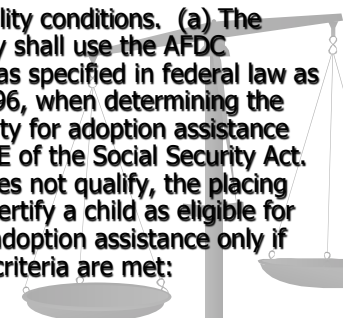
Adoption Legislation

- (3) The child has a high risk of developing physical, mental, emotional or behavioral disabilities.
- (4) The child is adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why a child cannot or should not be returned to the home of the child’s parent.



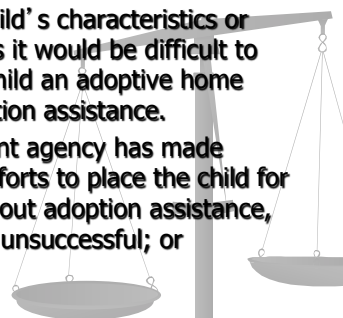
Adoption Legislation

- Subd. 4 Eligibility conditions. (a) The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child’s eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:



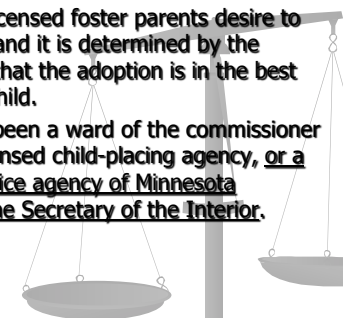
Adoption Legislation

- (1) Due to the child’s characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.
- (2) (i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful; or



Adoption Legislation

- (ii) the child’s licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child.
- (3) The child has been a ward of the commissioner a Minnesota-licensed child-placing agency, or a tribal social service agency of Minnesota recognized by the Secretary of the Interior.



Adoption Legislation

- (b) For purposes of this subdivision, the characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), are the following:

Adoption Legislation Contracting- POS

- Subd. 7. Reimbursement of costs. (a) Subject to rules of the commissioner, and the provisions of this subdivision a child-placing agency licensed in Minnesota or any other state, or local or tribal, social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing adoption services for a child certified as eligible for adoption assistance under subdivision 4.

Adoption Legislation

- Subd. 7 (c) When a local or tribal social services agency uses a purchase of service agreement to provide services reimbursable under a reimbursement agreement, the commissioner may make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local or tribal social service agency along with a verification that the service was provided.

Problems with the Social Security Administration

- November, 2003 – Received notice that Social Security will not recognize the customary adoption

Social Security Administration
Retirement, Survivors, and Disability Insurance
Notice of Disapproved Claim

M191n M6

Mid-America Program
Service Center
601 East Twelfth Street
Kansas City, Missouri 64106-2859
Date: November 17, 2003
Claim Number:



We are writing to tell you that [redacted] does not qualify for child's benefits.

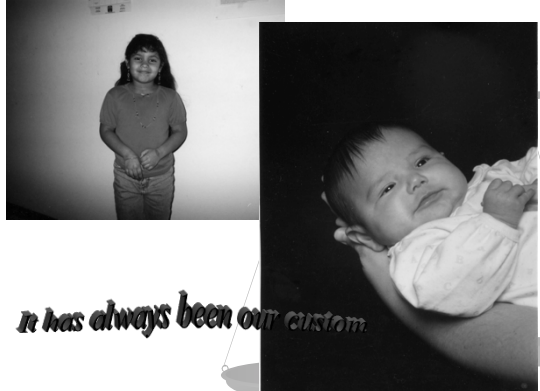
Benefits are not payable because you do not have the necessary relationship to [redacted]. To qualify, you must be his child, adopted child, or grandchild under the law.

Social Security Appeal

- May, 2005 – Filed appeal with Social Security
- July, 2005 – Finally have all the kinks out of contracting
- March, 2006 – Received a letter regarding appeal to Social Security requesting evidence of adoption process
- Won both our appeals in 2005 and 2006



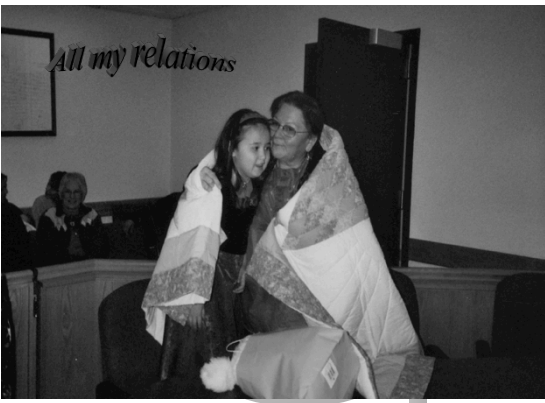
- The Customary Adoption Code can be found on the White Earth Tribal Court website at www.whiteearthtribalcourt.com



It has always been our custom.



*Our drum
prairie Thunder!*



All my relations

THE END

- LuAnne Soyring Lottino
- White Earth Tribal Adoption Program
- P.O. Box 358
- White Earth, MN 56591
- 218-983-4647

