



Tribal Engagement Strategies:

Establishing and Sustaining Connections

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NATIONAL COUNCIL OF
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The National Council of Juvenile and Family Court Judges®, headquartered on the University of Nevada campus in Reno since 1969, provides cutting-edge training, wide-ranging technical assistance, and research to help the nation's juvenile and family courts, judges, and staff in their important work. Since its founding in 1937 by a group of judges dedicated to improving the effectiveness of the nation's juvenile courts, the National Council of Juvenile and Family Court Judges has pursued a mission to improve courts and system practice and to raise awareness of the core issues that touch the lives of many of our nation's children and families.

This Technical Assistance Bulletin is a publication of the National Council of Juvenile and Family Court Judges in collaboration with Casey Family Programs, whose mission is to provide, improve—and ultimately prevent the need for—foster care.

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Mari Kay Bickett, JD
Chief Executive Officer
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“BECAUSE IN THE INDIAN COMMUNITY
THINGS HAPPEN BASED ON RELATIONSHIPS...”

JUDGE WILLIAM THORNE (RET.), UTAH COURT OF APPEALS

Much has been written in great detail about tribal court-state court relationships and the importance of collaboration. While resources abound, there is still more that state courts can do to develop fruitful relationships with tribal courts and communities. Together, the National Council of Juvenile and Family Court Judges (NCJFCJ) and Casey Family Programs have committed to assisting state and tribal courts and Court Improvement Projects (CIP) as they work together to improve outcomes for children, families, and communities.

In 2012, the NCJFCJ published *Improving Compliance with the Indian Child Welfare Act: A Guide for Juvenile and Family Courts*. This publication provides four strategies to improving compliance with the Indian Child Welfare Act (ICWA), the first of which is to develop meaningful and ongoing collaborative relationships. Developing relationships in the spirit of mutual respect and learning can be the foundation for collaborative problem-solving to improve compliance with the ICWA as well as create a forum for dealing with other issues such as full faith and credit, juveniles in detention, and services to support families.

Meaningful collaboration has been defined as an ongoing process in which “courts and agencies identify and work toward shared goals and activities to increase the safety, permanency, and well-being of children in the child welfare system.”¹ The following technical assistance brief provides information on specific strategies employed by individuals, states, and Model Courts.

¹

A.K. Davis & G. Jackson. Meaningful and ongoing engagement of tribes and state courts in child protection. *Future Trends in State Courts 2012*. (Williamsburg, VA: National Center for State Courts, 2012).

Judge to Judge

HONORABLE PATRICIA CLARK (RET.), KING COUNTY SUPERIOR COURT JUDGE, SEATTLE, WASHINGTON

Uncovering ignorance

Judge Theresa Pouley, Chief Judge of the Tulalip Tribe, and I met at a Washington State Court Judicial Conference in the late 1990s. Judge Theresa Pouley, then serving as Judge for the Lummi Tribal Court, gave a presentation to State Court Judges on the topic of ICWA, and more broadly on Indian Law. Prior to that presentation I was completely unaware of the depth of my ignorance. Learning that Tribes were each separate sovereign governments with their own court systems including Judges was enlightening. Judge Pouley communicated a passion for her work as a Tribal Court Judge that resonated with me. Following the presentation, we spoke about the possibility of sitting on each other's benches to learn from each other and to improve justice in cases that might cross over between jurisdictional boundaries. Life and time took over from there. Judge Pouley continued teaching, judging, and building a national reputation which is respected in both court systems and I became increasingly involved in the issues of disproportionality and the tremendous negative impacts of the removal of children in Indian Country.

Shared passion

We came together again at a Tribal Judicial Leadership Group meeting, convened by the NCJFCJ, on the Tulalip Indian Reservation where Judge Pouley had become the Chief Judge. The topics discussed at this meeting were wide-ranging, from the painful history of Native people, to the current state of the law, hopeful efforts across the county, and insights into what might affect change. When the conversation turned to cross-jurisdictional issues and efforts to work together, both of us realized that we may have the opportunity to fulfill our dream of sitting on each other's benches and create the opportunity for more collaboration in our state. We approached the State Supreme Court Justice with a proposal to launch a Tribal-State Judge Consortium that would serve as a forum to address issues which impact both court systems. In 2012, the Chief Justice empowered us to develop a statewide consortium, and with assistance from the NCJFCJ, we traveled with a team to California together to learn about that state's Tribal Court-State Court Forum which included valuable information from the Tribal Law and Policy Institute.

Creative solutions to mutual problems

Through the years of watching each other work and observing each other's shared passion for improving the lives of people in their communities, we have developed a high level of mutual respect and trust. We still share the hope that tribal court and state court judges can someday share each other's benches. Through the years we have gained a better understanding of the needs and issues facing both communities and developed trust and understanding that will lead to creative solutions to mutual problems.

Court Improvement Program to Tribal Community

MISTY BUTLER, MPA, UTAH COURT IMPROVEMENT PROGRAM

Approach

The CIP Instruction states that the courts have an obligation to collaborate with the tribes in their state. As the CIP Coordinator for the State of Utah I've learned that collaboration is an essential element of effective initiatives. Collaboration is a daily process and is the foundation of the work we do. Through my experience working with the tribes, the word collaborate has taken on a new meaning. We are finally in a place where court/tribal relationships are healthy and productive, but that was not always the case. This effort has taken numerous attempts and taught us many lessons. The key word in successful collaboration with tribes is "approach."

A successful approach has come with recognizing that the tribe's historical experience with the government has been one of force and broken promises. Merely setting up a meeting, making introductions, and making assignments is not enough, and often is a recipe for failure. As representatives of the government, we enter that relationship with multiple generations of mistrust placed upon us. A successful approach is one that works to build understanding, trust, and reassurance. Relationships of trust take time, work, and patience. The following are three lessons I have learned over the years to help successfully collaborate with tribes:

Listen

Instead of making assignments each time a meeting is held, take time to get to know those with whom you are working. During our initial meetings with one another, we asked each other what we would like to see improved in the system. Most of the ideas came from our tribal representatives. They appreciated the chance to be heard. We wrote these ideas down and they became our strategic plan. Currently, we hold many of our meetings at tribal locations. I have found that this is a rare occurrence for them and is looked upon with appreciation. It also demonstrates that we are willing to meet with them on their terms.

Take ownership

It is easy to create a list of things that you think the tribes could do to improve. I encourage you to stay away from this trap. It is forceful and breeds mistrust. Listening and taking ownership go hand in hand. While you are generating ideas about areas you can improve, only add to the list ideas that the tribes have identified. Or if there is something that needs to be added to the list, be sure it is something that can be improved in your own system. Take ownership.

As an example of taking ownership, Utah recently conducted a statewide ICWA Compliance Assessment with assistance from the NCJFCJ and the National Center for State Courts (NCSC). Our committee chose to focus only on assessing the court's obligations under ICWA. This has gone a long way to show that we recognize that we have areas in which we need to make improvements. It also shows that we are not there to tell the tribes where they need to make improvements, but to work together to improve outcomes for children while respecting different approaches.

Follow-through

Following through is extremely important in building relationships of trust. You can listen and take ownership, but if you do not do what you say you are going to, you lose all credibility and momentum. As a representative of the government, it is important to me that we do not fall into the historical trap of breaking our promises.

Listening, taking ownership, and following through all take time and consistency, but when combined, they can be a formula for success. Without them we easily fall into the category of those who came before us. I would also encourage CIPs to find a champion dedicated to the effort. This person should enjoy their work. It is not an obligation. It may be a challenge, but it is a challenge that is worth the effort and in my opinion, a gift. I deeply value learning about the rich Native American culture in my state. What I have learned about collaborating with tribes will forever change my approach with any group I am working with and it is a wonderful experience to feel like you are making meaningful, lasting change.

State to Nation: California Tribal Court/State Court Forum

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Equal partners

Chief Judge Richard Blake of the Hoopa Tribal Court had a vision of developing relationships between the tribal courts and California state courts when he reached out to California Chief Justice Ron George in 2009. The response set the stage for bringing together tribal court and state court leaders as equal partners to address areas of mutual concern. Chief Justice Ronald George appointed a tribal court judge and state court judge to co-chair the forum for which Judge Blake has provided tribal judicial leadership. Subsequent California Chief Justices have continued to support the Tribal-State Forum.

Respecting tribal sovereignty

The Forum is charged with identifying issues concerning the working relationship between tribal and state courts and recommending to the Judicial Council ways to address these issues. The California Administrative Office of the Courts (AOC) adopted a strategic approach that accorded respect to tribal sovereignty. Conducting tribal outreach on a government to government relationship, the AOC sent a letter to each federally recognized tribe in California. The letter described the intent to convene tribal court and state court judges together, and invited tribal chairs to participate by

“IF THE STATE OF CALIFORNIA CAN DEVELOP RELATIONSHIPS WITH THE TRIBAL COURTS IN CALIFORNIA, IT IS POSSIBLE IN ANY STATE IN THE UNITED STATES.”

HON. RICHARD BLAKE, CHIEF JUDGE HOOPA TRIBAL COURT

nominating a tribal court judge to serve on this body. The state court judges on the forum were selected either because they had tribal courts in their counties or they were chairs of the

California Judicial Council's advisory committees. Having advisory committee chairs on the forum has been instrumental in the development and support for legislative, rule, and Forum proposals. California is home to 107 federally recognized tribes and 17 tribal courts. As the number of tribal courts is increasing, the need for state and tribal courts to understand one another and work together is becoming increasingly vital.

Establishing common ground

The initial groundwork to establish common ground was critical to develop shared values and principles to guide the work. These early discussions were important for members to develop initial trust and to help identify areas of

“THE FORUM’S APPROACH HAS BEEN STRATEGIC AND THE KEYS TO ITS EARLY SUCCESSES ARE IN PART DUE TO: THE COMPOSITION OF THE FORUM; ESTABLISHING COMMON GROUND; AND FOCUSING ON QUICKLY ACHIEVABLE SOLUTIONS.”

JENNIFER WALTERS

common concern. Relationship building, sharing experiences, and learning from one another has set a foundation which will increase the likelihood of greater successes with more challenging issues.

Opportunities in times of shrinking resources

Chief Judge Abby Abinanti, Yurok Tribal Court, and Judge Christopher Wilson, Superior Court of California, Humboldt County, co-hosted a cross-court exchange to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence and/or elder abuse in the tribal community. In a time of shrinking resources, opportunities for collaboration can fill service gaps, increase oversight and accountability, particularly in difficult to supervise situations like domestic violence, substance abuse treatment, and the related areas of child welfare. One highlight was discussion about future cooperative agreements including plans to continue the dialogue in formal meetings designed to create a memorandum of understanding that would govern collaborative work which will also include related criminal supervisory areas and re-entry planning for tribal members.

Collaborative efforts have included:

- Sharing training resources by extending invitations to one another other to attend conferences sponsored by tribal and state courts;
- Sharing legal expertise to revise judicial bench guides;
- Sharing protective orders through technology so that tribal and state court judges can view one another’s orders;
- Sharing court order forms;
- Developing a rule and form proposal that improves compliance with the ICWA, a proposal that establishes an efficient and consistent statewide procedure for California state courts to register protective orders issued by tribal courts in California; and
- Developing a legislative proposal to clarify and simplify the process by which tribal civil judgments will be recognized by the state courts of California and enforced just as any state civil judgment would be.

Model Courts and Urban Indian Organizations

HONORABLE ELIZABETH T. TROSCH, MECKLENBURG COUNTY DISTRICT COURT JUDGE, NORTH CAROLINA

Judge William Thorne once told me, “In Indian country, we believe children need three things: they need to know where they come from, they need to know what their responsibilities are, and they need to know where they are going.” These words have changed how I look at every dependency case I hear.

Relentless efforts

Professionals who work in the child welfare field know that the outcomes of our efforts are often heartbreaking. The majority of children who age out of foster care are homeless, imprisoned, or dead within a year. Those children who find permanency in surrogate care through adoption have better outcomes *unless* they are children of color or Native American. Native American children in non-native surrogate care have alarmingly disproportionate rates of suicide and high-risk behaviors. I have reached the conclusion that there is one good explanation for these tragic disparities: Native American children growing up in non-native surrogate care have no way of learning who they are unless child welfare workers, foster parents, and judges are relentless in their efforts to connect Native American children to their heritage, customs, and culture.

The Charlotte Model Court has committed its efforts over the last two years to better understanding the diverse Native American community in our region and to building the relationships we need to ensure that Native American children who come into foster care are connected to tribal history, culture, and customs regardless of the applicability of the ICWA. North Carolina has the largest Native American population in the southeast and the Charlotte community is an urban and suburban region in which nearly ten thousand Native Americans reside. This population is comprised of Native Americans from many different tribes across the nation. Native Americans in the region can connect with one another and with resources through the Metrolina Native American Association (MNAA).

Establishing and sustaining connections

The Charlotte Model Court initiated efforts to establish relationships with leaders in the MNAA and their leadership now sits on our Model Court Advisory Committee. A liaison was established between the Department of Social Services and the MNAA to engage in a continuous relationship that facilitates the exchange of information and resources to support Native American children in foster care. This relationship has enabled our court to maintain some continuity in the lives of Native American children by sustaining and sometimes establishing a connection to their Native heritage. It is our hope that by ensuring that Native American children in foster care know where they come from, that they will develop a sense of their responsibilities to their family and community and that knowing where they come from will inspire hope for their future.

Conclusion

Commitment to true collaboration can be found at all levels and leaders from around the country have set examples for others to follow. It is possible to strengthen existing collaborative relationships with tribes and develop new relationships by learning from others who have done this work, and most importantly learning the history of Tribal people and developing an understanding of the people's perception of their history. Taking the steps outlined by contributors to this publication will lead to lasting relationships that will benefit children and families.

Resources

To learn more about California's Tribal-State work visit the website of the Tribal Projects Unit, a program under the California Administrative Office of the Courts, Center for Families, Children & the Courts at <http://www.courts.ca.gov/programs-tribal.htm>.

The Tribal Law and Policy Institute (TLPI), working under a grant from the United States Department of Justice, Bureau of Justice Assistance, collects and disseminates resources for promoting and facilitating Tribal-State-Federal collaborations as part of its Walking on Common Ground Project. <http://www.walkingoncommonground.org/>

Tribal STAR is a program of the San Diego State University School of Social Work, Academy for Professional Excellence and provides provide technical assistance to tribes, tribal programs, county social workers working with Tribal foster youth and all others who work with Tribal youth. Tribal STAR has developed specific recommendations to assist service providers and other professionals in developing relationships with tribal counterparts. http://theacademy.sdsu.edu/TribalSTAR/resources/Resource_List.htm

The NCJFCJ recognizes tribal courts as equal and parallel systems of justice and seeks to assist or partner with individuals and organizations that share this value. If you have been inspired by these stories or have your own to share, please contact NCJFCJ staff at caninfo@ncjfcj.org. Information on the NCJFCJ's work with tribal courts and with tribal-state relationship building can be found at www.NCJFCJ.org.