

Child Welfare Information Gateway Podcast – TCIP: Adapting to Child Welfare Cases
TRANSCRIPT

Presenters: Female Narrator; Tom Oates, Child Welfare Information Gateway; Carrie Garrow, St. Regis Mohawk Tribe; Vivian Bussiere, Mashpee Wampanoag Tribe

[00:00:00]: Music Introduction

FEMALE NARRATOR [00:00:02]: This is the Child Welfare Information Gateway Podcast, a place for those who care about strengthening families and protecting children. You'll hear about the innovations, emerging trends and success stories across child welfare direct from those striving to make a difference. This is your place for new ideas and information to support your work to improve the lives of children, youth, and families.

TOM OATES [00:00:33]: Here on the Child Welfare Information Gateway podcast, we get the opportunity to share what others working in various aspects of adoption, foster care, and prevention are doing or learning to improve outcomes - the improvements they've witnessed and the lessons they've learned along the way. Many times, those whose stories we get to share are from agencies or organizations that learned those lessons as part of grants that they've been awarded by the Children's Bureau – and this is the first episode of a series where we're diving into an area that, well frankly, we haven't spent much time talking about - Native American and Alaska Native Tribes.

[00:01:13]: Hi folks, Tom Oates here, and welcome into the Child Welfare Information Gateway podcast. So, we're not only going to spend some time focusing on tribal child welfare, but specifically, we're going to look at how tribal courts are becoming more involved in child welfare. We're starting a series looking at work performed as part of the Children's Bureau's Tribal Court Improvement Program; awarded to tribes and tribal consortia to review how they handle child welfare cases, how they make improvements within their systems, and other efforts to serve tribal children and their families. Now this has a lot of takeaways for state and local child welfare practitioners, along with state and local courts – not just tribal child welfare.

[00:01:57]: So, we're going to look at subjects such as improving working relationships with State child welfare and court systems, how tribal courts are applying a 'family-centered' approach to their child welfare proceedings and services, how tribes have become a resource for states to comply with the Indian Child Welfare Act, and what tribal judges have done to revise and update their courts' Children's Code to help define and communicate their proceedings and processes.

[00:02:25]: So, a lot to look forward to over the next few episodes, however in this episode, we'll dive into how courts are preparing and adapting to take on child welfare cases. Many tribal courts do not address child welfare cases, leaving it up to the State or County courts who have to work with tribal social services. We're going to hear from two tribal courts about what they've done – and are doing – to take on this new role.

[00:02:50]: The St. Regis Mohawk Tribe is in far upstate New York in the Adirondack region on the St. Lawrence River and part of New York's border with Canada. Their tribal court improvement work has entailed expanding their civil court to include a family court system to handle child welfare cases - moving away from having those cases handled by the courts within Franklin County, New York. Now while the Tribe's civil court has, for a long time, operated a drug court called Healing to Wellness Court, they are taking on child welfare cases and this has created a new triangular relationship around child welfare between the tribal court, the Franklin County court and the Tribe's Division of Social Services.

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[00:03:34]: Judge Carrie Garrow is the chief judge and she oversees the Healing to Wellness Court and now she's overseeing the new family court. Her responsibility has been to help build the tribal court's capacity and lead the development of a structure that can hear these additional civil cases. We started our conversation by asking what were the biggest concerns she had about adapting to and taking on civil child welfare cases.

CARRIE GARROW [00:04:02]: I think the first hurdle is, you know, building the trust that, that we can provide the support for them, because the dependency case still, right now stays in county court and it's - which fortunately, we had already started to build that relationship with our tribal DSS and also with the county, the judge, you know, knows us, you know, knew the former chief judge and so building that relationship to, you know, refer those cases over to us.

[00:04:35]: And then, and then the hard part is then to prove we can be successful - which is hard in these types of cases, especially a challenge, because sometimes we get these parents after they've already been, you know, recycling around the child welfare system and dealing with substance abuse and they're very frustrated and angry and dealing with addiction and so they're tough, tough cases, you know, to help get these parents, you know, into recovery and help them to stay sober and get done all the things that they need to do to be reunified with their parents.

[00:05:13]: And so, you know, it's an ongoing process to even, you know, I remember going out, the family court judge invited me out to visit - they do have a family drug court for the county - and so, the coordinator had been there and visited it in the past and I went out, as well - soon after I got on the bench - and just, you know, watched what they did and how they do it and just to build that relationship a little bit more.

TOM OATES [00:05:43]: And what year did you go on the bench?

CARRIE GARROW [00:05:46]: So, I started as chief judge - I have to think here - 2016.

TOM OATES [00:05:51]: Okay. So, when you mentioned about trust - was it, or has it been a bigger challenge to get trust with the county or trust within DSS within the Tribe?

CARRIE GARROW [00:06:03]: Right. That's a good question. I think, from my perspective, it's probably more so with the county. I think, when I got on the bench, you know, when I came on the bench and met with our tribal DSS, you know, they had someone who had already been on our adult team and so our coordinator already had a good relationship with them and so, and then we took that - we're doing some other kind of interesting things building off of our family treatment court with our tribal DSS, trying to, you know, help them service their families.

[00:06:40]: And so, I think it's probably more so with the county and I think that's, you know, that's a historical relationship that's always been a little rough, it's not necessarily just because of the people, but, you know, there's been a long history of distrust between the Tribe and the county.

TOM OATES [00:06:57]: So, there's not only those relationships that you talk about - you know, fostering that - but then, there's also gotta be a skill element, too, and a knowledge-based, too. So, for you and your team to make this, this leap - what did you guys need to acquire, how did you need to either change your approach or what did you need to, to learn to properly be able to address the civil cases?

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CARRIE GARROW [00:07:20]: Right. I think for, for us and something that we've been trying to do is just being more family focused, you know, as opposed to just, you know, focusing on an individual. And something we're still working on, as well, to make sure that we have the right people on the team. We go to a couple trainings every year and make sure - like at the National Drug Court Conference - you know, and I try to make sure that, you know, that I go to a couple of the family tracks. Because it is a bit different dealing with these types of cases.

TOM OATES [00:07:54]: So, what have you learned so far? It's been a couple of years now.

CARRIE GARROW [00:08:00]: You know, the interesting thing is that I actually find these cases a little bit more challenging than being in criminal court - and I haven't, you know, I've talked to a lot of people about that and I'm not sure that I have figured out the reason why, but. And I think I've also learned the importance of having what they call an integrated docket where - so a lot of family drug courts, even in the county system will be parallel, that means one judge is doing the dependency case and one judge is doing the drug court case and we've even made that worse, because now like, two different sovereigns, like, you know, we're doing the family treatment case and the county's doing the dependency case.

[00:08:47]: And, I think it's much easier on the families - or, somewhat easier on the families - when it's, it's integrated. So, one judge handles both the dependency case and the family treatment case - because otherwise, I think you end up kind of bouncing back and, the parents end up bouncing back and forth and you know, what happens in the dependency court doesn't always mirror what is best from a therapeutic perspective from the parents whereas, you know, we focus less on punishment and more on therapeutic adjustments, whereas you know, if you're in dependency court and you're not doing what you're supposed to be doing, you tend to get punished.

[00:09:26]: And so, it's, it's, that's been really emphasized to me is - and that's our goal one day to have more of an integrative model where we're even doing the dependency cases because I think it will be easier on the parents.

TOM OATES [00:09:38]: Is that part of the, as you mentioned, becoming more family focused, was that something that you guys identified and really kind of put there and said this is something we, we need to achieve and strive for?

CARRIE GARROW [00:09:50]: In the last couple of, probably the last year and a half, absolutely, you know, certainly being more family focused is certainly, you know, as you're talking around in our staffings, you know, we meet once a week to talk about the participants just to make sure that we know how the children are doing in addition to the parents, as well, and making sure that everybody in the family is getting the correct counseling or educational training or assistance, whatever it is.

[00:10:22]: But yes, I think between probably in the last year and a half we realized that we really need to focus on - to make it really family focused - if we had both cases here, it would be a lot easier.

TOM OATES [00:10:36]: You know, I'm curious, because as you guys are embarking on this and then you know, changing and adapting and growing, clearly there are a lot of questions and questions always tend to go up the chain. As the chief judge of the tribal court, who do you go to for answers? It can be, you know, lonely at the top, so who are you, you know, who are you looking for advice and for guidance and to bounce things off of?

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CARRIE GARROW [00:11:03]: Well, that's what I love about Healing to Wellness Courts - whether they're adult or family treatment - is that I always go to the, start with the team, you know, whenever there's an issue, you know, I love that I have a team, essentially of experts - substance abuse, mental health - from child welfare and law enforcement, and we spend a lot of time talking it out. And then, you know, I think I've been very fortunate, I think as I've, you know, been to trainings and as I've done trainings myself, gotten to know a few people out in the field that I feel like I can go to and say, okay, we're dealing with kind of a tough issue here, anybody have any advice.

[00:11:40]: And I think that's one of the benefits of going to trainings is that you find, you know, the experts who you can build a relationship with and then when you have questions, you know, ask them.

TOM OATES [00:11:51]: So, after a couple of years now, let me turn the tables here - what advice would you give for a court trying to make a similar transition?

CARRIE GARROW [00:12:00]: Right. I would definitely focus on making sure that you have a good, well-functioning team. I was very fortunate when I came on the bench that I have a phenomenal team and they were already working really well together, you know, but I think we all know that teamwork is not always easy. We all have busy, other lives, other jobs, other responsibilities. And so, I would definitely say to take the time to build that team, develop your shared mission goals and how you work together as a team, because, you know, there will always be disagreements and people will change, as well, you know, people leave positions. So, I would definitely focus on that first.

TOM OATES [00:12:45]: Now as Judge Garrow and St. Regis Mohawk took the proactive steps and decision to embrace child welfare cases, Mashpee Wampanoag of Massachusetts started out a bit different. They had an emergency child welfare case that came to them. This prompted their tribal court to decide to move forward to expand their work to handle tribal child welfare proceedings.

[00:13:05]: Coincidentally, Mashpee Wampanoag was also a Title IV-E Planning grant recipient, so in conjunction with that work the tribal court moved – like St. Regis Mohawk – to have tribal judicial and social services staff trained to take on this new work. When I talked to Vivian Bussiere, the Tribal Court Administrator, we began by laying out exactly who needed to be trained and the type of training required.

VIVIAN BUSSIÈRE [00:13:31]: Well, you know, the first party we had to train was the ICWA Department, the caseworkers. Even though they were aware there was an ICWA law, they didn't understand the ICWA law and how it worked for them, because as participants in state court with one of our kids, they would just sit there in the back of the room and let the lawyer take care of everything. So, they really didn't understand the process or why the lawyer did what she did.

[00:14:06]: So we brought in one of our supreme court judges, Judge Terry Yellowhammer to train our ICWA people in the ICWA law, number one, so they would understand when they went to state court what was needed, and number two, our own child and family ordinance that we were developing because to have cases in tribal court, they needed to understand and be educated around that, as well.

[00:14:33]: So, we had a lot of trainings going on, we had another judge, Judge Madison, sit with them and go over some forms that they needed. We also had our legal component go over, we had attorney

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Mark Tilden - as one of our legal associates in the grant - he sat down with them and went over the ICWA law as well. A lot of training for them.

[00:15:00]: And, our judges, as well. We sent our judges to trainings so they could learn about custody, you know, different various things, various components of child welfare when it comes before the bench. They needed to know that process, as well, and what to take into consideration and what to look for and, you know, what to expect from the status reports that came in from the ICWA Department - what to look for.

TOM OATES [00:15:31]: And how long ago did all of this start?

VIVIAN BUSSIÈRE [00:15:34]: Well, we started right from the minute we got the funding, you know, doing this. We had done the CFO quickly prior to the grant. When the grant came in, that gave us the time to really sit down and go through those processes and start the education process. It was important that everybody understood what was going on and become a unit so that it would go well. We have since had a number of transfer cases to tribal court. So, you know, we knew once we got one, we knew others would come our way. People prefer to have their cases in tribal court if we can take them.

TOM OATES [00:16:23]: So, what has been the difference so far now that these teams have started to become more educated and started to assimilate the process, what are you guys seeing?

VIVIAN BUSSIÈRE [00:16:32]: Well, now at the end of the grant, we see a lot of positive things coming out of this. Number one, the Child Welfare Department, our ICWA department knows the process. They're comfortable with the process now. So, coming to tribal court, or any court, isn't as intimidating as it was before. They understand the law better than they did before. Before it seemed like they just were clueless.

[00:17:04]: They come to us if there's a question, you know, they have a question about the process, they will come to us and work with us. We're still working on the status reports. There still needs to be improvements in the status reports, but since we've received the Title IV-E planning grant, which also ended, they have been trained on how to input information and they have gotten a case management system which is going to help them with the process and the paperwork involved.

TOM OATES [00:17:39]: So, hand in hand of preparing your people, there's also the aspect of when you talk about learning the laws, being comfortable with them - you guys have been revising them along the way with the laws, the policy and the codes. So, talk to me about what you guys had to do to really review what you had, decide on the direction to go and then actually do the work - what did all of that entail?

VIVIAN BUSSIÈRE [00:18:05]: It entailed quite a bit, actually. We were fortunate - we had a partnership with the Suffolk University Law School Indigenous People's Clinic, which meant we had professor and at any one time, four to five students researching, working with us, helping us develop and that was great. We also had a legal component which could go over and say, okay, do we have jurisdiction here, will this work, what is the process here.

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[00:18:37]: Because we had to - even though we're a tribal court - we still had to have a process that would be respected by the state. Because, I remember we had given a seminar and the state said to me - we brought them around our tribal court and one of the judges from the state said to me - and, how do you handle your child welfare cases? Like we would do it any different, because it's all for the, in the best interest of the child, obviously, but there's a perception out there that tribal courts don't do a good job.

[00:19:19]: As far as knowing what to modify, what to change in the ordinance - I got a lot of good ideas from going to the NICWA conferences, because when you go to a NICWA conference, you see these other components that other tribes have looked into and brought up and said, oh wow, this is important for us as a people, as a culture. And, we didn't have anything on grandparent visitation and I had gone to a NICWA conference and I thought, wow, we don't have in our child and family, we need to have that because grandparents in our tribe are very important. Our tribe really reveres elders and a lot of our grandparents bring up their grandchildren - that's true in all tribes, I think, you'll see it across Indian country where that's the norm.

[00:20:11]: And, so, we looked into that. We had nothing about paternity. The only mention of paternity was in our enrollment ordinance, so we had to put something down for paternity. We also had to look at - which was a big controversy in our tribe - termination of parental rights. We don't want to do that, really, unless it's absolutely necessary. So, we spent a great deal of time looking at that in this ordinance, because prior to the completed ordinance, it had been not really addressed and it had to be addressed.

[00:20:48]: Particularly when Title IV-E came into the picture. We really had to address it and how the tribe was going to handle it, you know, so, there were lots of different aspects that came in that we had to reconsider when it came to our child and family ordinance and that happened during the duration of the grant, those different things.

TOM OATES [00:21:12]: And, now that you have these finalized as best they can be right now, how helpful have they been to your staff, to the processes, where you've got documentation to say here's, you know, here's the line that's been drawn, or here's what we adhere to?

VIVIAN BUSSIÈRE [00:21:28]: Not only is it clear because of what we've been able to add and because we've gone to our community and said, you know, what do you think, is this important, you know, to you. And we've gotten a lot of positives on it and a lot of support around it and it's easy to understand, you know, even though it's quite long - I think it's like, I don't know, forty some odd pages long - still, anyone of our tribal members could sit down, read it and understand it. And that's what we wanted, because in our tribal court, most of our litigants represent themselves, so they need to understand the process, they need to understand what is and what isn't the law. So, and that was very important to us. Very few of our families go out and hire lawyers.

TOM OATES [00:22:25]: Now, we just dipped our toes in the last few minutes there into a topic that we'll really explore in our next episode - that's how tribal courts are revising and updating their child and family codes. Stay tuned for that in our next episode, as we'll hear from two other tribal courts and how they went about reviewing and rewriting their codes and process and the interesting challenges that tribes face that state and county courts don't.

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[00:22:52]: If you head over to the podcast's page on the Children's Bureau's site, just head over to www.acf.hhs.gov/cb and search podcast, we'll point you to the December 2018 issue of Children's Bureau Express. Now, that's important because the entire issue focuses on the role of the legal and judicial community in improving outcomes for children and families. And while CBX focuses on all courts and we're spending time on tribal courts, there are plenty of nuggets to take away from – as are all the stories and lessons we're that hearing from on this series.

[00:23:29]: So, we'll also put up links to the Information Gateway sections with resources for tribal professionals and information for those working with tribal families. A reminder you can connect to Information Gateway at any time at www.childwelfare.gov.

[00:23:44]: So, thanks for being a part of the Child Welfare Information Gateway podcast, my thanks to Vivian Bussiere and Judge Carrie Garrow for their time. Look out for the next few episodes of this series focusing on Tribal Court Improvement. For all of us here at Child Welfare Information Gateway, I'm Tom Oates, have a great day.

FEMALE NARRATOR [00:24:05]: Thanks for joining us for this edition of the Child Welfare Information Gateway podcast. Child Welfare Information Gateway is available at www.childwelfare.gov and is a service of the Children's Bureau, U.S. Department of Health and Human Services Administration for Children and Families. The views and opinions expressed on this podcast do not necessarily reflect those of Information Gateway, or the Children's Bureau.