

Child Welfare Information Gateway Podcast
Tribal Courts and Child Welfare: Partnering with Tribal Social Services
TRANSCRIPT

Presenters: Female Narrator; Tom Oates, Child Welfare Information Gateway; Vivian Bussiere, Mashpee Wampanoag Tribe; Ruthanne Gallup, Ponca Tribe of Nebraska; Stacie Waters, Taos Pueblo; Judge T. David Eisenberg, Taos Pueblo

[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 [00:00:34]: Anyone who's worked in or encountered the child welfare system quickly recognizes the 'system' is more than just the child welfare agency. The partners and connections span across social services, and they can involve education, health care and housing, along with law enforcement. Another key partner are the courts; communication and a shared understanding of the processes and requirements are key to moving cases forward and ensuring decisions serve the best interests of children and families. Now, today on the Child Welfare Information Gateway Podcast, we're going to focus on what courts - specifically tribal courts - are doing to develop stronger relationships with the ICWA and social service departments within their own tribe.

[00:01:18]: Welcome in everyone, I'm Tom Oates, and we are continuing to look at how tribal courts are taking steps to develop or improve systems to hopefully lead to better outcomes for tribal families and children who are involved in child abuse and neglect cases, along with custody and permanency cases. This is one of a series of episodes featuring grantees from the Children's Bureau's Tribal Court Improvement Program.

[00:01:42]: Now, some of the tribal courts have just begun to hear child welfare cases, while others needed to improve existing processes - and there's a lot to pull apart there. We've got other episodes on how court leaders built the capacity and developed a system to hear child welfare cases, how tribal courts are becoming more family-centered, even how the courts are working to improve partnerships with their state and local counterparts.

[00:02:06]: Now, I encourage you to head over the podcast's web page on the Children's Bureau's site, that's over at www.acf.hhs.gov/cb - just search podcasts - check those out, you can follow up with many of the resources that we've posted within each episode's pages. Today, however, we're specifically talking about tribal courts who are developing stronger working relationships with their own tribe's child welfare and social service agencies.

[00:02:34]: So, we'll start in Massachusetts, with the Mashpee Wampanoag Tribe. Now, they opened their tribal court to child welfare cases really because they were handed an emergency child welfare case they needed to take care of it immediately. Now, that emergency then led the tribe and the tribal court to realize that they needed develop a solid process, which included revising their child and family ordinance and to train both their court and their ICWA staff. Now as the court is receiving more cases, they needed a strong partnership with their own ICWA team.

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[00:03:07]: Vivian Bussiere is the chair of the tribe's Elders Judiciary Committee. Now, from her perspective, to build a strong, effective relationship between the Tribal court and the tribe's ICWA department, everyone had to start from scratch.

VIVIAN BUSSIERE [00:03:23]: It was difficult because there was no relationship, there was no working together. The fact is we hadn't had a case yet, we didn't have to. When we started the grant and we got the emergency case, they hadn't been showing up at the meetings, although they're invited to all the team meetings that we had while we were developing all of this stuff.

[00:03:47]: I think the first year and a half they might have shown up - out of maybe 18 meetings - they might have shown up at three. It was that bad. Finally, when they started to understand how important this was and we were getting more and more transfer cases into tribal court, then they started showing up to meetings. But, in the meantime they went through phases of being short staffed, which also would impact whether they'd be at a team meeting or not. I think now when I have a team meeting, they show up and they have the last year, especially since Title IV-E.

TOM OATES [00:04:33]: So, what were your priorities when you realized that you had to develop and strengthen this relationship between the courts and the Child Welfare Department - what were your key objectives?

VIVIAN BUSSIERE [00:04:43]: Well, what we wanted to do is, we felt if we developed forms for them and flow charts with the process, that would engage them, that they would see that we really wanted to work with them and we wanted to help them and support them. We even allowed them to, you know, ask our legal from our grant how they could better serve on their side, on their grant, their Title IV-E planning grant.

[00:05:18]: So, it was, it was, it worked, you know, it was a long process, the start wasn't very good, but the process did gain momentum, the relationship became key, I think even for them. So now, when I send them things - I just sent them the, we just got the Child and Family Ordinance adopted and signed by the chairman. It was sent out, they write back 'thank you'. We just did an administrative order regarding status hearings and you get a response now, 'thank you', you know, so, it's good. It is good.

TOM OATES [00:06:04]: So, what did you do to kind of create the connections? Because, really what it boils down to, it doesn't talk about the department, we're talking about people.

VIVIAN BUSSIERE [00:06:11]: Yeah, well, I don't know. I think if you're persistent enough and you keep inviting them, and you don't criticize them but keep encouraging them and showing them that you want to work with them for the betterment of our tribal members and our children - because it's all about the children, you know, it's a no brainer - you have to come together, you have to work as a team. I'm trying to promote this throughout the tribe, you know, people get, so they want to protect their turf, you know, this is my little domain and, you know, this is how my domain runs and you're not in my domain. So, but it's getting them to want to work with you.

TOM OATES [00:06:56]: So, what would you describe the relationship now?

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VIVIAN BUSSIERE [00:06:59]: It's a good relationship. It's a very good relationship. As a matter of fact, when we showed up at the training, the training that they had yesterday for all of the case workers, lawyers and judges, well of course, the court showed up. You know, we had our district court judge there who is on the panel, we had our chief judge there and three members of the elder's judiciary committee were there and they were very happy to see us.

[00:07:24]: As a matter of fact, the director came over and talked with us about the training and her visions and so, it's good. We understand what they're doing, they understand what we are doing. So, it's a good line of communication.

TOM OATES [00:07:42]: There's a trend I noticed among the Tribal Court Improvement Program grantees that we spoke with. Many of the tribal courts were more concerned with supporting families in ways that could avoid – or at least mitigate the chances of – families actually coming in front of a judge. Now, in another episode, we'll dive deep into ways tribal courts are becoming more family centered, so go ahead and stay tuned for that.

[00:08:05]: Now as we specifically talk about the relationships tribal courts are developing with their tribe's child welfare and social service departments to hopefully collective support families, we're gonna turn to the Ponca Tribe of Nebraska. Now, to reduce the number of families that have to approach a judge – or at least reduce the amount of decisions that the court must make on behalf of families – they've turned to implementing mediation across the court and social services. The hopes are the families can be brought together to communicate and contribute – if not wholeheartedly agree – to the decisions that hopefully lead to resolutions that best support the family.

[00:08:43]: Ruthanne Gallup is Ponca's Tribal Court Administrator and helped launch mediation training across the court staff, but also included the tribe's social services staff in the training. You'll hear Ruthanne describe some of the changes in a moment. Now, there is just a value of enabling a family's voice to be heard – and that means more than one side of the story being shared. We started at, well, the beginning, as Ruthanne explained how mediation training got started.

RUTHANNE GALLUP [00:09:11]: The mediation training we went through was with the State of Nebraska. They had set guidelines that they followed. They had the basic mediation, which is just, you know, they used a lot for civil cases, you know, I guess if there's action in the small claims court, where there's, you know, that. And then they have the family mediation training that they do and that's to help parents develop a parenting plan for cases where, you know, the parents are splitting up and so they need to have, you know, the parents decide legal custody, physical custody, things like that.

[00:09:50]: And then they also offered a special alternative dispute resolution training and that is a training where there's, domestic abuse has happened. And so, we've had people trained in all of those.

TOM OATES [00:10:05]: So, those are a little diverse in where they're used, so it may involve - it sounds like to me - different types of staff. So, can you give me a sense of who has been trained and the type of training they received, if someone is thinking about, you know, taking down the similar path that the Ponca Tribe has gone through, you know, talk to me about who and the type of training that they received.

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RUTHANNE GALLUP [00:10:30]: Well, did it a little differently than a lot of people, we got all the social service staff trained, including the director, the case workers and even the ICWA training the, ICWA specialist was trained in the basic mediation. And that was so they would know what was happening, you know, they'd know the process that people go through and it also helps, you know, them focus on finding, dealing with the issues behind the things, it calms down, you know, when things get heated it provides ways to calm down, deescalating, you know, the arguments and it provides different tools to help people focus on the solution to the problems.

[00:11:14]: And then, we also had the court staff trained and they were the ones that went beyond the basic training. They did family training and they did the special alternative dispute resolution because a lot of the mediation that we do actually involves parenting plans and so that really was very helpful to know what should be included in the parenting plan.

TOM OATES [00:11:40]: Can you give me a sense of, maybe through, I don't know, what you would consider the lifecycle of a case - but I guess that sometimes if these are, is these, if the mediation happens before something gets to, to the court - but if you can give me a sense of how mediation is being used today and, you know, where, maybe you see it being used most often?

RUTHANNE GALLUP [00:12:03]: Sure, right now, our mediation is being used mostly in the court cases. We do have some where people will contact us and they'll say, hey, we're getting split up, you know, we just need this plan written down. And so then, we'll mediate that, you know, and help them. But, mainly we'll have people come into court and they'll say, you know, they'll file and, you know, say for custody or whatever and then they will have a pre-trial court hearing and the judge will, you know, he will say you guys have to attempt mediation, they order them to attempt mediation.

[00:12:40]: And so, then they'll contact the mediation center, the Ponca Mediation Center, and we'll get the, you know, process rolling. We can do mediations, we've done it over the phone for people that are outside the area, we've actually done, you know, face to face and we do a lot of shuttle mediation, so where one person has control, you know, as always had control over the situation and we don't put them in the same room. The mediators will bounce back and forth between the rooms.

TOM OATES [00:13:14]: So, talk to me about, maybe what your court staff has then experienced - and maybe the before and after - now that they've only, you know, got the training, but then they are able to use this to either, you know, settle disputes, keep things away from maybe escalating, but then maybe actually having the parents - though they may be on a path of separation - of at least working together and having some sort of buy-in of where this process takes them.

RUTHANNE GALLUP [00:13:40]: It's been very beneficial, I think. Before when there is no mediation - and you know, I'm a huge supporter of mediation, because I've sat in the court process and I've watched horrible things where people are involved in a process that they don't really understand, it's adversarial in nature, it's like I'm gonna spend all my time and energy proving that I'm better than this person and, you know, even if they win the case, there's still, kind of, there's still the trauma of the other person, you know, putting them down and if they lose then they'll still want to go back and say I've gotta get back into court so I can prove I was the right one and this person, you know, is worse than I am.

[00:14:25]: And so, that's just not healthy for people. And with mediation there it's a much more comfortable process where the people can get to actually tell their whole story where they might not

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have been able to tell the whole story in court because, you know, of varied rules and evidence, they want to bring out something - and it's more flexible and they get to decide, you know, what's important to them and how they raise their children instead of having a stranger, you know, a judge that they've never met before decide how their kids are going to be raised.

TOM OATES [00:15:00]: And just, you know, on the side, you actually have the court staff that is having to deal with this process either before mediation or now with mediation. What has been their reaction to, I guess, approaching their work this way?

RUTHANNE GALLUP [00:15:16]: The court staff has been very, you know, they have supported it greatly. We have a really small court system, otherwise, you know, we would have someone outside the court. But there's no one there, so that's why we use the court staff and they've been very supportive. It helps them to be more neutral and not pit one side against the other, you know, just even with just the basic training, just it keeps them from, you know, saying someone comes in oh yeah and you know you've gotta file this.

[00:15:50]: It's where they, you know, say hey, there is this mediation you guys, you know, can solve your own problems. And so, the court staff have been real supportive, you know, no one likes to sit and, kind of, watch people destroy each other and so it's much more beneficial.

TOM OATES [00:16:09]: What's the key from what you've seen, what's the key to a successful mediation?

RUTHANNE GALLUP [00:16:14]: I think anything is successful, you know, even if it's not a full agreement, just being able to, you know, have someone be able to tell their story and have someone there to listen to the story and give them their full attention and draw out the things that, you know, aren't being said and I think that's mainly the key is to let people tell their story, because that doesn't always happen, especially not in the court setting.

TOM OATES [00:16:44]: You know if there were an agency, or even a tribe or not tribal, that was thinking about going down this path, as well, of thinking of, you know, we offer all these types of training or we're thinking about something to help improve our staff that's gonna benefit the families we serve - what's the advice that you would give them about mediation training that maybe you wish that you could've known at the beginning to help somebody's transition.

RUTHANNE GALLUP [00:17:11]: I think it's very important to work with the, you know, whatever, I worked with the State of Nebraska and, you know, I have been, you know, I have been affiliated with the Nebraska Mediation Center, which is one of their centers that they have and so I've been able to co-mediate through the state because you don't want to do any harm, you don't want to just jump in and say, hey, I can, you know, I can solve this, you know, we'll have everybody come together and, you know, that will be horrible.

[00:17:41]: So, you've really got to work with the, you know, work with someone that's, you know, done the work before and don't be afraid to reach out to them and say hey, this is what's going on. Most of the time, they were real receptive to us anyway.

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TOM OATES [00:17:58]: Yeah, the bottom line is something comes to you it's escalated already, and so you've gotta keep that in mind, that emotions and anxiety and, is already at a high level and so it's, it's something that I guess people have to have a learned perspective on how to approach that. What has this done to the outcomes? Are you seeing differences when it comes to either the cases or time to resolution?

RUTHANNE GALLUP [00:18:28]: We have seen the ones that have, you know, mediated, they have been, it's been a better process when they go into court because they've already went through the hard work of, you know, this is what I want, and we're really specific on, okay this is the time the holiday, you know, they get to decide what holiday they want included, this is the time it starts, this is the day it starts, this is the time it ends, this is the day it ends.

[00:18:57]: And so, there's been, you know, they've been through that so the court time is much less and even if it's not a full agreement, there can be a partial agreement where they can decide on everything, decided legal custody, they decided, you know, the holidays, the summer schedule and they just can't, you know, both parents are really good parents and they both want their kids with them, you know, so they can't decide on who gets the regular parenting time during the school year. And the judge, that's all the trial will be over because everything else has been agreed to.

TOM OATES [00:19:30]: Another example of trying to build internal partnerships comes from Taos Pueblo of New Mexico. As part of an entirely revised Children's Code, the tribal court realized there was tremendous apprehension for service providers to file reports with the tribe's family court. This was partially due to a confusing Children's Code, but also a negative stigma among not only families, but the service providers who were attached to the stigma of having families come in front of a judge; folks felt that they would rather handle incidents and issues on their own.

[00:20:02]: Well, the new Children's Code instituted a pre-adjudicative process for families to come together with social services – like a case plan – that would provide supports and establish milestones and objectives that would avoid bringing a family into court while still working on family strengthening or reunification.

[00:20:21]: To identify the right services and map out the plan for each family in this pre-adjudicative process, Stacie Waters oversees a monthly Child Protective and Adult Protective Team Meeting. This brings a diverse group together - frontline workers representing Behavioral Health, Youth Outreach, substance abuse, you've got clinical health and public health along the way, Head Start & education all join the tribe's family navigator. You've got tribal sheriff and protective services represented here, plus community resources from outside the tribe such as court attorneys, child advocates, and CASA. All of these folks come together with their expertise, their perspective, and their unique approaches.

[00:21:04]: So, Stacie Waters, now, the social services manager and ICWA Manager for Taos Pueblo, she and Judge T. David Eisenberg from the tribe's family court joined us to talk about this. Now, within these monthly meetings, Stacie is the one responsible for managing and navigating the opinions and those passions and those disagreements all to avoid stagnation, move forward and stay grounded. It can be a challenge. So, how does she do it?

STACIE WATERS [00:21:32]: I serve a good biscuits and gravy. It settles them down. Judge can tell you, I serve it, it's good stuff. So, we have a basic mission statement, so we all understand the mission

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statement, the purpose of the meetings. We also have a confidentiality, but most important, we have prayer. We open our, our, before we even start anything, we open up in prayer and we ask for guidance, we ask for direction, we ask for patience, of course. But also, we ask that our focus is to still uplift these families.

[00:22:12]: That was one of the, my main things when I took over these meetings and facilitating them was that this wasn't a witch hunt, this wasn't a gossip session, this was families that are in need and still have to have their honor still remain intact. Because if they really were in a right space in a right frame of mind, they wouldn't be in the situations they're in.

[00:22:34]: So, we want to remember, it's not the action, it's the actual people that we're dealing with that they still need that sense of respect and that help and that compassion. So, what we're dealing with - and you're right, there's still some people that come up with ideas - and so what we try and do is, it's like a task force team. So that way it's not a hierarchy of like, okay this I have the last say, I don't have the last say - we have to all decide as a group who is better fit to accomplish this task. Who is better fit to be able to get the resource or the information that we need.

[00:23:10]: And then, there are times that we're able to agree to disagree. But, the main thing and the main focus is the safety of child. Is the safety and progression of the family. So, there are times, yeah, it leaves like okay, but in the end it's still, the teams are still evolving and the cases are still ongoing. So, there are times that we've had to, you know, say our sorrys and yup, I should've waited. And there's other times where we've had to say, wow, thank you for, you know, we, we give each other back those. But, we also have to maintain the prayer.

T. DAVID EISENBERG [00:23:49]: I think that the family services plan provides the, provides the map with regard to the services that that family needs. So, you have to be as true to the family services plan as much as possible because you can't change it in midstream because the family's following it and if you change it in midstream, then you're going to lose a certain amount of trust because you're changing the rules of the game for the family. So, you know, all the different team members have to understand that.

[00:24:21]: We all agreed when we came up with this plan that these were your, these were your roles and responsibilities for this family, so if there's gonna be change, it can't be like these drastic changes because you're changing, again you're changing the rules in the middle of the game for the family.

TOM OATES [00:24:42]: There's a key takeaway for anyone implementing a long-term plan: stay grounded to the goal and make sure every decision is made with that goal in mind - you know, in this case it's the family's plan - and make sure the decision leads to achieving the goal.

[00:24:57]: There's some new information available on Child Welfare Information Gateway to support collaboration between child-serving agencies and courts. Just head over to this episode's page on the Children's Bureau's website - at www.acf.hhs.gov/cb - just search podcasts, we'll point you to some valuable resources. How Agencies and Courts Improve Outcomes Together is a training course developed by the Child Welfare Capacity Building Center for States and it's specifically to help participants increase communication and collaboration between courts and state child welfare agencies - and there are CEU's available for that course. There's also a training course on coaching to ICWA

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compliance for state and tribal partnerships. Now these courses are all online and available through CB's online learning management system, called CapLEARN and it is a free and easy registration.

[00:25:51]: So, we point you to also a resource for families, specifically. Understanding Child Welfare and the Courts is a factsheet for families who are involved in the child welfare system and it gives them an overview on the court process, helps them understand parental rights, and get some guidance on how to prepare and respond to court proceedings.

[00:26:10]: So, go ahead and check those out, along with the other episodes within this series focusing on the work being done as part of the Children's Bureau's Tribal Court Improvement Program. Now if you have questions about information you may be searching for to help your practice, or if you're looking for contact or support groups, or to help families in their journey, reach out to us at info@childwelfare.gov or check out Child Welfare Information Gateway at www.childwelfare.gov.

[00:26:40]: My thanks to Ruthanne Gallup from the Ponca Tribe of Nebraska, Stacie Waters and Judge Eisenberg from Taos Pueblo, and Vivian Bussiere from the Mashpee Wampanoag tribe for their time with us, and thank you for listening to the Child Welfare Information Gateway podcast. Have a great day!

FEMALE NARRATOR [00:26:29]: 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 on those of Information Gateway, or the Children's Bureau.