

Child Welfare Information Gateway Podcast  
TCIP: Overcoming Challenges to Working with States  
TRANSCRIPT

Presenters: Female Narrator; Tom Oates, Child Welfare Information Gateway; Stephanie Popisil, Ponca Tribe of Nebraska; 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]: If there is any overarching theme to the more than 20 hours of the Child Welfare Information Gateway podcast series, it's collaboration, partnership and information sharing is not only beneficial to improving outcomes for children and families - it's vital. And that's the case for practitioners working together, working with community groups, working with families, working across agencies, you name it. And that's the case - pun intended - for courts, too.

[00:01:02]: Hi everyone, Tom Oates from Child Welfare Information Gateway here. Now we've been spending a great deal of time featuring American Indian and Alaska Native tribal courts. We've been talking with awardees of the Children's Bureau's Tribal Court Improvement Program grants. So, these are tribal courts who are using the grants to enhance or expand their ability to hear child welfare cases or improve collaboration with tribal or state counterparts. Now, today, we are continuing our series on Tribal Courts and Child Welfare.

[00:01:33]: Now the episode we just launched last month showcased how tribal courts and tribal child welfare are working to build better relationships with their state counterparts. Now, if you haven't listened to that one, just head over to the Children's Bureau's web page at [www.acf.hhs.gov/cb](http://www.acf.hhs.gov/cb) and search podcasts. Now, you don't need to listen to that one to listen to this one, but, just for that one, we really focused on developing better personal relationships and understanding between staff, and many of the barriers were actually personal and they centered around mistrust that needed to be addressed.

[00:02:11]: But what if your biggest challenge doesn't involve people, but legal or process issues? It's some of the challenges we're gonna hear about, along with what two different tribes are doing to mitigate the issues and stay involved – or improve their involvement – with tribal families engaged in the child welfare system and juvenile and family courts.

[00:02:32]: The Ponca Tribe is located across the Midwest, with most of their territory within the State of Nebraska, so most of their interaction with state child welfare involves working with Nebraska's child welfare system. Stephanie Popisil is the Ponca Tribe's Social Services Director. Now, you'll hear how Stephanie and her team have established some structured communication channels with their counterparts from Nebraska's child welfare system and their family court.

[00:02:58]: However, a big challenge – outside of relationships - stems from geography. The Ponca is one of four tribes in Nebraska, but as we mentioned the Ponca territory is across the Midwest; it spans three states and multiple counties. Now, most of the tribal areas are in the State of Nebraska, but here's the real twist – the Ponca tribe has no reservation, and that hangs over Stephanie's Social Services team

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when creating an effective relationship with Nebraska's Child Welfare services and the courts to ensure consistency of services for the tribal families they serve.

**STEPHANIE POPISIL** [00:03:36]: So, that was one of our, our largest concerns, was just not having a reservation and the other three tribes that are in Nebraska do have a reservation. So, having that reservation boundary allowed easier contracts and agreements to be arranged with the state. And so, those other state, those other tribes, their boundaries for investigating and working child abuse and neglect cases are pretty clear.

[00:04:13]: So, with the Ponca Tribe and just having twelve counties - and those are contiguous counties, those are counties that are spread out throughout the eastern part of and northern part of Nebraska. So that's one of our largest concerns and just trying to figure out if there was going to be a, an agreement - what that would look like, how not having a clear boundary per se would allow the Ponca Tribe to exercise the jurisdiction over Ponca families involved in the child welfare system.

[00:04:55]: So, we started having those conversations probably within the last ten years and then there's been some turnover at the State of Nebraska and there's been some turnover at the Ponca Tribe in my position and so those, those conversations have kind of stalled a little bit, but there still is willingness to move forward with those, those contracts and those discussions, it's just determining if the Ponca Tribe would have a child welfare agreement, what that would look like and when the Ponca Tribe would, would come into that investigative process.

**TOM OATES** [00:05:45]: What have been the big sticking points then, through that kind of - and it sounds really, really nebulous, unfortunately, both in a geographic sense and in a jurisdiction and legal sense - what have been the biggest sticking points that you've found in, in trying to establish a working relationship?

**STEPHANIE POPISIL** [00:06:04]: I think one of the largest ones was, is just trying to figure out how we would identify and accept those cases that involve Ponca families and we wouldn't want to delay a process at all - but trying to figure out how quickly we could get the, a Ponca family identified so that if a case would then be taken over by the Ponca Tribe of Nebraska then just being able to do that in a smooth fashion so that there's minimal impact.

[00:06:43]: The, one of the other biggest takeaways is even though we don't have this contract or agreement with the State of Nebraska, the Ponca Tribe is allowed to participate in any of their child welfare trainings that they offer for free. If the, when a new worker comes on board for the State of Nebraska, that person goes through about a six-month training process - it's not completely all that period of time, but it's a week here, a couple days here, another week here - and so, they've offered us that accessibility, as well.

[00:07:27]: So, the Ponca Tribe case managers get that same case management training that those child protective workers are getting in the state and so that has been helpful that if this agreement or contract ever comes about, then the workers at the Ponca Tribe know what the lingo is, they know what the access is, they're going to go through those same processes that the state would go through so that there's some continuity and consistency that's there.

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**TOM OATES** [00:08:09]: There's also a level of understanding that, that the Ponca Tribe caseworkers have for, kind of, what happens on the other side of the fence, what happens when a family is involved with the state. Knowing that, what have you, what have your caseworkers then been able to do to, kind of, I don't know, make their presence known or to maintain involvement in those relations with the state, and kind of, ensuring that the communication and that process continues to happen when, when maybe a family's working with the state?

**STEPHANIE POPISIL** [00:08:43]: It is incredibly helpful for us when a family, if a family contacts us first rather than a state worker, if a family contacts us first and they're talking about what they're experiencing with the state, then the workers that have gone through that training understand where that family is, and when and by what words they're using, then since that Ponca Tribe worker's already gone through the training, then they have an idea, oh, that's where you are.

[00:09:20]: And then, just being able to reach out to that state worker and have that understanding of this is the next step and this is a possibility. And so, it helps when the case is closed, and the state is not involved any longer, then the workers, the Ponca Tribe workers have such a huge understanding of what resources and services the family is already accessed and then what services are still out there. So, they have an idea - by working closely with the state worker - they have an idea of well, this is the therapist that the family's already gone to for three years, or this is the therapist that they had that didn't quite work out the way we wanted them to and so now they've switched to this other one.

[00:10:18]: So, it's a, it's a kind of a two-way street where the Ponca Tribe worker really gets right in there and understands the needs and challenges of the family, but then also is able to identify future community resources and services that are available to that family and any other family.

**TOM OATES** [00:10:44]: Yeah, having that full understanding of what the family requires, what the family's already gone through and their experiences there has to be incredibly valuable. So, is there a structure to that relationship between the Ponca caseworkers and, and the state caseworkers? Is there a, you know, a communication schedule or a reporting schedule back and forth? How does that relationship work?

**STEPHANIE POPISIL** [00:11:09]: I have really explained to the Ponca Tribe workers that they really need to be reaching out to the state workers and while some may think that it's a state responsibility, again, it is a two-way street, and the Ponca Tribe needs to take on that responsibility as well in reaching out. The expectation is that family team meetings, home visits, any staffing, court hearings - all of those specific individual meetings that involve the family, the Ponca Tribe needs to be a part of.

[00:11:47]: And, so, for the most part, we are able to attend those in person, but there is some times where we have things that end up getting double booked, or something like that, we have participated over the phone, but I would say 95% of the time we're doing those meetings face to face and we recently, within the last month, probably, have implemented that every Monday, the Ponca Tribe worker will email the state worker that's assigned to the individual cases and ask if there is anything new that's happening with the case, if there's anything coming up for the week - just to keep those lines of communication open and I'm included on those emails and we have been getting a really good response back from those workers.

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[00:12:50]: Just like anything else, everyone's busy, so trying to pick up the phone or calling at the right time or calling in the middle of a court hearing when someone can't answer, and just, the volume of calls that everyone gets, we found that this email process is a lot smoother, our response rates have greatly increased over phone call messages that something then that's in writing and it can go into the file.

[00:13:22]: We also have implemented case staffings with the State of Nebraska, and that is on the first Friday and last Friday of each month - and the case manager just needs to attend one of those days, whichever date works better for them - but we have meetings that on the first Friday and the last Friday and the case managers for the state then call in and myself and the Ponca Tribe ICWA specialist and then the state ICWA specialist are all on the phone and we are just having a quick conversation.

[00:14:07]: It's five to ten minutes at the most, just what has happened, is there anything that the state is needing from the tribe, it's a way for the tribe to talk about any new program, to talk about any recurring program. We've used, we'll use November and December to talk about if there's any Ponca member holiday gatherings and being able to say, hey, reminder, could you let the foster family know that on whatever day there's going to be a Christmas dinner so that then the kids can go and the foster parent can go, just to meet some additional people. So, we've implemented that, as well, and that has had a really good response.

**TOM OATES** [00:15:00]: What have you seen, then, from the outcomes of all this - from, from your staff, I'm not sure if you've had any reaction from the state and from the families. How has this, how has this impacted, this, I guess, new format, or this change in relations, how has this, what are the, what are the outcomes that you're seeing?

**STEPHANIE POPISIL** [00:15:17]: From my point of view, it really seems to have opened up the communication barrier, we're getting a lot more things on our calendar more quickly, we are getting higher response rates to court hearings and family team meetings and it seems like before that was kind of us to keep track of those dates, but now we have those dates coming in from so many avenues that it just is easier and the Ponca Tribe case manager and the state case manager seem to have a lot better relationship because they're communicating more often and it's not just I've seen you and then in six months, I'll see you at the next court date, it's kind of, it's a recognition and it's, it's really helped plan for the families and I would hope, looking in the future, that those would, that these activities would - cross your fingers - close cases faster because there would be that, that collaboration and working together.

[00:16:37]: Obviously, there's no way to say that right now, but that would be my hope. And from what I've heard from the workers is that at the beginning it was, I don't have time to call in once a month on a Friday, or I don't have time to answer an email every Monday - but from what I'm hearing is that it's really just been, it doesn't take long, it doesn't take any extra time, it maybe even takes less time than playing phone tag so often. It's just, it's been very helpful to have that level of communication.

**TOM OATES** [00:17:26]: So, Stephanie and the Ponca tribe are working to leverage communication to ensure services and cultural connections are maintained for tribal families, yeah, sometimes communication can be a barrier in itself. But, the Mashpee Wampanoag Tribe, they've been working on something a little different. They have been working with the State of Massachusetts to develop a compact - a legal document - to enable the tribal court and ICWA departments to be involved within State ICWA cases.

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[00:17:53]: For those not familiar, a Child Welfare Compact is a government-to-government agreement – in this case between a state and a tribe or a tribal organization. They establish a framework for tribes to provide child welfare services and recognize the tribes' inherent sovereign authority to serve their citizens. Compacts define the services to be carried out by tribes and tribal organizations in a defined jurisdiction or service area. Now, key aspects that the Mashpee Wampanoag Tribe and Massachusetts have gone back and forth on are trying to establish a clear understanding of ICWA and how the Federal law establishes tribal involvement and connections in child welfare cases that are within the state court.

[00:18:37]: Vivian Busierre is the Tribal Court Administrator and the Chair of the tribe's Elders Judiciary Committee. Now, she shared with us some the steps involved up to this moment, in fact, in working toward finalizing this compact. It is sensitive, and it is a challenging subject – with updates, as you can hear, that happened right up to the moment we recorded our interview.

**VIVIAN BUSSIERE** [00:18:59]: We started our compact with the state any years ago and they never did anything with it. Well, we had some internal problems - they were straightened away, we developed the compact internally, we sent it to the state and the state sat on it for years, you know, like we didn't matter. So, we had legal push it and plus this grant helped us to get legal to push it. And, we finally got a response from the state and the state met with us this past, this last year of the grant and actually sat down with us - probably the past year and a half of the TCIP grant - actually came and met with us every two weeks to go over that compact, to talk about what the tribe was looking for and how much the state was willing to give.

[00:19:51]: We learned a lot about the state and the state wasn't very respectful of the ICWA law and thought they did a better job and couldn't understand why the feds had said this has to be done, this has to be done, this has to be done. So, we did, there was a lot of head-butting initially with the state because they didn't understand. I don't think the state truly understood the ICWA laws themselves.

[00:20:19]: You know, they were under state law and for them, state law made more sense. As a tribe, we were looking at the ICWA law and how it pertained to Indian children. So, when we had our meetings at one point, they were asking us to do things that were totally against the ICWA, the ICWA guidelines and the ICWA law and at one point, we had to walk out of the room to discuss something before we could go on discussing with them.

[00:20:53]: The other issue - every time we brought something up, we would get the response, oh, that's a, that's a union issue, we don't know if we can do that because the union. When we're asking for training for the caseworkers in ICWA law, it's a union issue. And I sat down and I'm thinking, who supersedes here, the federal government or the union? I mean, these people need to know the laws, right, federal laws, as well as state laws. Particularly the federal law when you're working with Indian tribes.

[00:21:27]: So, yesterday, they were at the training and interestingly enough, the attorney who kept challenging us on what we wanted in our compact was there and he said, "boy I'm glad I came here today, because you know what, I've learned a lot, it's really opened my eyes." Yay. So, now maybe they'll you know, get serious with the compact and work with us.

**TOM OATES** [00:21:57]: Well, how important has that been to establish, really, for both sides here, an understanding of not only what ICWA is, but the role it plays and, really, the power that it has where it

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sounds like one counterpart, the state, looks at it as either just guidance, or something outside their realm as they're dealing with state laws. Meanwhile, the tribe has prioritized ICWA, rightfully so. So, how important - not just to, to say, hey, here are our processes and here's what we do versus here's what you do - but actually establishing, you know, how these are prioritized or what supersedes what. How much of this was just education?

**VIVIAN BUSSIERE** [00:22:41]: Well, I think a lot of it needs to be education, but if you're, if you're unwilling to be educated, then it means nothing. You see, the State of Massachusetts only had one other recognized tribe and that was the Aquinnah Tribe, Aquinnah Wampanoag - they were over on the island - but they signed away half their rights, they had the state take care of all their ICWA cases.

[00:23:05]: Well, the Mashpee Wampanoag Tribe didn't sign anything away, you know, so, we want our rights, we want our children, you know, we want to make sure that our children are being looked at under federal law, the ICWA law, they're being protected. We've had problems with the state as far as our children go. I worked briefly for the ICWA Department - I'm a licensed social worker - so, I consulted with the ICWA Department some years ago and what I saw the state workers doing with our people and how they treated them was - because they didn't know the law - was horrendous.

[00:23:58]: And I knew it stemmed from ignorance because they weren't being trained, why, because Massachusetts never had to deal with it before, really. You know, I think they were probably taking the Aquinnah kids and running them through the state guidelines, whereas with Mashpee, that, that wasn't good for us. You know, federal law is federal law and the Aquinnah kids should've been treated under ICWA, you know.

**TOM OATES** [00:24:28]: So, in your mind, what does a successful relationship between the tribe and the state require?

**VIVIAN BUSSIERE** [00:24:35]: One's the compact, you know, because the compact says to them, hey, we really do have a right to intervene with our kids, this is our right with the ICWA law, this is what we want from the state as a sovereign nation. Nation to nation, or state to nation. You know, this is what we need, this is what we want to keep our children here, to keep our children tribal and to make sure all their needs are met. That's what we want.

[00:25:07]: And, when the state - which, I think they're coming around, however they drag their feet, this compact's been going on for a long time - I think when they finally come to the point where they're willing to sit down with us, right now, the compact's in their court. They're looking at it, you know. They need to look at it and come back to us. You know, I think as Indian tribes, we're kind of, the last priority. We're really not that important. But, we don't see it that way.

**TOM OATES** [00:25:46]: So, as you can hear, overcoming these structural barriers can be time consuming and frustrating. But as we mentioned at the top of the episode, collaboration, partnership and developing a shared understanding are vital to improving the outcomes of the children and families served.

[00:26:03]: My thanks to Vivian Busierre from the Mashpee Wampanoag tribe and Stephanie Popisil from the Ponca tribe of Nebraska for being willing to have, frankly, a frank and open discussion. Which is what we've found across the board from all of the Tribal Court Improvement Program grantees. More

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on this series to come, including episodes we've already launched about how some tribal courts are building their capacity to handle and hear child welfare cases.

[00:26:29]: You can also take a listen – and this is really for anyone who has to update policies or procedures of any form – you can listen to what some tribal judges did to review and update their court's Children's Code. We've also got more coming with our Tribal Courts and Child Welfare series, including how tribal courts specifically have worked to become more family-centered.

[00:26:51]: All the episodes of the Child Welfare Information Gateway podcast series are available at the Children's Bureau's website at [www.acf.hhs.gov/cb](http://www.acf.hhs.gov/cb) – just search podcasts. Now, for those – both within and those who work with – tribal families, hey, go check out the Tribal Information Exchange – it is part of the Child Welfare Capacity Building Center for Tribes. There's a Tribal ICWA peer-to-peer group, along with tools and information to help tribal child welfare agencies adjust to Title IV-E and grow their programs to better serve children and families. There's also a full resource library available. So, we'll have a link to the Tribal Information Exchange on this episode's webpage, which is also gonna be on the Children's Bureau's site.

[00:27:37]: So, hey, thank so much for all the work you do. We know it's exhausting at times, but also can be so rewarding. And I thank you for spending some of your valuable time with us here on the Child Welfare Information Gateway podcast. You can find us and a full slate of peer-reviewed resources and publications on child welfare, a database of state statutes related to child welfare, foster care and adoption. You'll find the most recent data and contact information, all on Child Welfare Information Gateway - that's over at [www.childwelfare.gov](http://www.childwelfare.gov). But for now, I'm Tom Oates – thanks for listening!

**FEMALE NARRATOR** [00:28:22]: Thanks for joining us for this edition of the Child Welfare Information Gateway podcast. Child Welfare Information Gateway is available at [www.childwelfare.gov](http://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.