



**MINNESOTA  
JUDICIAL BRANCH**

**FOURTH JUDICIAL DISTRICT**

On June 15, 2016, the Fourth Judicial District conducted a judicial listening session at the Division of Indian Work in South Minneapolis. The District’s Family Court Enhancement Project addressed access to family court for Native American community members. The event entitled, “Judicial Listening Session – Meet with Judges and Court Staff in a Small Group Discussion about Domestic Violence,” was designed for community members to talk with judicial officers about their experiences and concerns when accessing the Court.

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## FOURTH DISTRICT REPORT

The goal of the Family Court Enhancement Project (FCEP) is to improve family court outcomes for domestic violence survivors and their children. One of the four objectives of the FCEP is increasing access for Native American survivors of domestic abuse in family court. The FCEP co-sponsored the event with the Division of Indian Work, the Native American Community Development Institute, and the Indian Child Welfare Law Center to help determine barriers faced by Native American survivors when seeking protection from the Court and law enforcement.

### INTRODUCTION

On June 15, 2016, a judicial listening session convened in the heart of the state's most populous Native American community – Hennepin County. The event was held at the Division of Indian Work, 1001 E. Lake Street, Minneapolis, MN 55407, from 5:30 p.m. – 7:30 p.m. Invitations and flyers were distributed to key organizations as identified by the FCEP's Tribal and State Court Liaison, the Director of the Division of Indian Work, subcommittee 4 co-chairs, and community members; posted on the Minnesota American Indian list serve; and at key community boards in the Minneapolis area. We were honored to have three Anishinabe women elders from the Ogichidaag Kwe Council open the listening session with a blessing in the Ojibwe language, and also offer a song in a traditional manner with their hand drums. This was moving and evoked a reflective, positive and respectful environment for the meeting.

The purpose of the judicial listening session was to create a public forum for community members to describe their experiences and to discuss ideas for advancing equality and fairness when addressing the issue of domestic violence in family court.

### Fourth District Session Details

Large group co-facilitators:

- Robert Lilligren, President/CEO Native American Community Development Institute
- Liza G. Garcia, Esq., Tribal and State Court Liaison, FCEP

Small group co-facilitators - Judges were matched with community leaders:

- Terry Yellowhammer, Attorney, Indian Child Welfare Law Center
- Louise Mattson, Director, Division of Indian Work
- Shanah Regguinti, Director of Programs, Division of Indian Work
- Marissa Carr, Program Coordinator, Division of Indian Work

Judicial Officers: 9 representing family, civil and criminal courts

Court Staff: 4

Community Representation: Ogichidaag Kwe Council, Native American Community Development Institute, Indian Child Welfare Law Center, Division of Indian Work, and City of Minneapolis.

## SUMMARY OF THE FOURTH DISTRICT SESSION

The goals of the listening session were:

- to provide an opportunity for community members to share thoughts, concerns, and experiences with the court addressing domestic violence;
- to hear from people who have interacted with the court system directly, or have friends/family that have interacted with the court system;
- to hear what is and is not working in terms of: perception of fair treatment, quality of service, and access; and
- to use what is shared to help the court ensure needs are met and that rights are respected when interacting with the judicial branch.

Eight community members attended the judicial listening session. Due to the Office on Violence Against Women financial policies, we were unable to provide a meal. The Fourth District provided cookies and coffee. Inability to provide a meal during a dinner hour meeting is inconsistent with cultural norms in the Native American community. This contributed to the judicial listening session's low turnout. After introductions, co-facilitators divided attendees into three small groups with approximately six or more people per table leading to discussions at each table.

## MAJOR THEMES OF THE SESSION

Eight (8) major themes were identified:

### 1. Enhance Court Facilities

- Onsite support needed.
- Provide traditional Native American "smudging"<sup>1</sup> room available for parties.
- Offer Native American elder to be available for parties to consult with in monitored waiting rooms (MWR).
- There is a stigma about asking for help. It would be helpful to offer an advocate to be available, similar to how hospitals offer a Native Patient Advocate.
- The community appreciated court in the community when it was offered. The community would like to revisit the restorative justice model and bring back community court. It would be a good idea to collaborate with a drum group and invite community members to a meal.
- Environment/ Aesthetic:
  - The Family Justice Center (FJC) is not welcoming.
  - The Domestic Abuse Service Center (DASC) is a nice model.

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<sup>1</sup> "Smudging" or "cleansing" is a ceremonial tradition many Indigenous peoples use for holistic purification of a person through the ritualistic burning of a small amount of traditional herbal medicine like sage, sweet grass, cedar or copal and fanning the smoke of the medicine to wash over a person to cleanse and assist them.

## 2. Outreach in Community

- Some people are unwilling to get an Order for Protection (OFP) because they are unfamiliar with the process and available resources. Education needs to happen before victims need protection.
- Generally people do not know about the FJC and the resources available.
- Provide a court outreach position at Little Earth United Tribes in South Minneapolis.
- Retain full-time permanent outreach person with the District to help community members navigate the court system.
- Target youth at schools and Little Earth for education about the court process.
- Create a position like a Guardian ad Litem in the community to support domestic abuse victims.
- Bring someone into the community to process petitions for OFP (like DASC in community).
- Provide resources to respondents for healing such as:
  - Culturally relevant batterer's intervention groups; and/or
  - Bring education to Court Watch at Little Earth.
- Provide more information about multi-jurisdiction issues and Public Law 280.
- Provide a link to a website that will explain what to expect when at court in domestic abuse hearings.
- It is important to provide information so that it can be accessed in a variety of ways. Community members have smart phones and youth communicate via Facebook/social media.
- Hold education events around current programs.
- Provide information for people who do not have questions, but may need information in the community and in jails.

## 3. Family/Juvenile Court Interaction

- Bifurcation of Juvenile case:
  - "Order" victim to obtain an OFP as the protective parent's case plan.
  - Some community members report they are inappropriately directed by Child Protection Services (CPS) to obtain an OFP as part of the protective parent's case plan even when they do not qualify for one.
  - Judicial officers need a better understanding of domestic abuse and why victims go back to abuser.

## 4. Education for Judicial Officers and Court Staff

- Judicial officers and court staff need to understand mental health, addiction needs, especially the heroin epidemic because both parties might be addicted or have mental health issues and need services.
- Judicial officers and court staff need implicit bias and cultural competence training.
- Judicial officers and court staff need historical trauma, intergenerational trauma, and epigenetics training.

- How do we get judicial officers to understand when he/she is culturally removed from the community and situation?
- Concerns that the judicial officers may be hearing cases as victims or perpetrators.

#### 5. Community Education/Resources

- Cultural component is vital
  - Ogichidaag Kwe Council – established at Elder’s lodge to address sexual assault in Native community; and
  - Elders indicate drumming & singing is the healing process.
- Share data on enforcement – e.g. how many cases with OFP violations.
- Education is needed about how Public Law 280 relates to domestic violence and removal of children.
- Address co-occurrence of drug use, mental health, and domestic violence, and impacts on the brain.
- Community members need education on the difference between Family, Juvenile and Criminal courts.

#### 6. Fear of Judicial Branch

- Historical Trauma – specifically abuse at boarding schools and foster homes impacts the following:
  - People are afraid to engage the system;
  - Parents do not want to risk losing their children or not getting the relief requested;
  - Loss of ability to be provider and protector;
  - Need culturally specific resources for men to address trauma; and
  - Empowerment.
- Extreme fear from recent sexual violence.
- People fear the child protection system.
- Address implicit bias.
- Need relationship building between the court and community.
- Parties feel intimidated to ask questions. They feel like they do not have a right to ask questions. Understand that everyone is not the same.

#### 7. Judicial Interaction

- Non-native people fail to recognize the importance and significance of culture for Native people.
- Courts do not follow parties.
- Some participants provided their experiences with judicial officer:
  - The judge had good energy and demonstrated respect.
  - Judge understood what participant was going through.
  - Some participants felt rushed through proceeding and did not understand what is going on. They also did not know their rights or their options.
- Victims do not feel confident that courts have capacity to really enforce the OFP & protect her/him.

- Court can be very intimidating especially the language used.
  - It is hard for Native people to see themselves in court.
  - Understand ways of communicating:
    - Silence is an act of communication and does not mean agreement. Native people tend to watch, listen, and take-in information.
    - Many native people think circularly and take things literally.
  - Victims come to court under stress/trauma; advocates help but may be better if victim has legal representation.
  - Need clarification about what happened during the hearing, the decision, relief granted and the consequences for violation including implications with Domestic Abuse No Contact Orders.
  - For some community members, discussions in chambers may be very helpful to disarm the intimidation factor.
8. New Law/Policy/Practice
- Establish child support at birth because people do not think to go to court until relief is needed. Be proactive instead of reactive.
  - Is it possible to implement a Batterer’s Intervention Program in jail?
    - Men need healing when they enter the system.
    - Mending Sacred Hoop-Duluth model.
  - Can the public defender be used as a resource for outreach? However, there is an issue of the public defender making choices for the client.
  - County Attorney (CA) training – e.g. where CA had more concern about blood alcohol concentration (BAC) of victim than rape of victim.

## SUMMATION

There were a number of excellent suggestions made to improve fairness and equality in our court system under eight thematic schemes elicited from the listening session. These themes fell largely into either the Court’s ability to consider within the District or by referring the issue to the Judicial Council. Issues raised under the theme of New Law/Policy/Practice fell into another branch of government or agency.

### Judicial Branch

Enhance Court Facilities  
 Outreach in Community  
 Family/Juvenile Court interaction  
 Education for Judicial Officers and Staff  
 Community Education/Resources  
 Fear of Judicial Branch  
 Judicial Interaction

### Executive/Legislative or agency

New Law/Policy/Practice

The District could consider tapping into its relational network with other branches of government to appropriately address and influence issues under the theme New Law/Practice/Policy, to improve the meaningful response of our judicial system.

For each of the eight themes, the FCEP Management Team reviewed the aforementioned comments, suggestions and proposals to inform priorities. After consideration, the FCEP Management team tasked Subcommittee 4 to address the concerns presented. Subcommittee 4 presented proposed activities as part of their 2017 strategic plan.

The Judicial listening session's low turnout occurred due to a number of factors; what becomes apparent is that providing a meal, holding a future session in conjunction with and complimenting another community event, and ensuring it is held on a date where the session does not compete with other events drawing largely from the same population and stakeholder groups would benefit future planning of another listening session. Government funders can improve attendance by eliminating funding restrictions prohibiting a culturally appropriate meal for attendees.

#### **RESULTS FROM FEEDBACK FORM**

**I felt like I could share my thoughts openly and honestly.**

11 strongly agree, 6 agree

**I felt respected by the people involved in this session.**

15 strongly agree, 2 agree

**Judges and small group facilitators listened well to the thoughts shared at my table.**

12 strongly agree, 4 agree

**Small group facilitators made sure everyone got a chance to speak and be heard.**

13 strongly agree, 4 agree

**The overall structure of the meeting worked well**

10 strongly agree, 7 agree

**The overall meeting was well facilitated**

13 strongly agree, 4 agree

**What one or two things went best in the listening session?**

- Sitting around the table, "visiting" style format; hearing from Elders
- Conversations were respectful and participants actually seemed as though they were taking in the information
- Mutual respect of opinions and ideas; a consensus of the opinion of needs of the community
- The "listening," I felt like I was heard- finally!

- The attendance by judges and court staff impressive!
- Great opportunity to hear first- hand stories.
- The discussion took place! Sincere listening
- Stayed on schedule. Opening in a good way.
- Quality of the discussion- openness
- Everyone was great about sharing, listening and being respectful
- Hearing interesting things from Native folks that matter
- Well organized
- Knowledge of Elders and facilitator and sharing of stories
- Role of facilitators in small group discussions and small groups in general
- Hearing the issues faced by Native Americans in the court system
- Honest discussion
- The discussion with various groups represented the group discussions

**What one or two things went less well in this listening session?**

- Need more people to participate
- Not enough community members present
- Not many community members in attendance
- Food- you get more people to attend
- The format felt intimidating
- Hope the ratio of community members and judicial officers was not too intimidating
- No juvenile court discussion
- Lack of community; too little food- over dinner hour
- Low number of participants
- I don't think anything went badly but it's too bad that more community members didn't come
- We could have used more community members
- Not many people from the community
- Ratio of staff to community members
- We needed more community members

**What was not covered that you would have liked to have seen addressed?**

- None
- Personal stories of victims
- Nothing
- Sexual violence
- Perhaps a very brief description of the difference in the various court divisions
- Homelessness of our youth
- The issue of sex trafficking and prostitution that comes into play when discussing domestic violence
- Just more people- but things build slow in American Indian community, we need people to hear about it, start coming

**What would you suggest be done differently in future listening session?**

- Like Fern's suggestion- join up w/ event, although it may be hard to find one appropriate
- Spend more time advertising the session in order to reach a wider audience
- More outreach to community members as to why this session is stressing a non-judgmental atmosphere
- Smaller group sessions
- Using a café conversation style
- Recommitment of community members
- Native outreach to community
- I love cookies but if you serve a meal, a lot more people will show up
- Consult community members / get them involved in planning and set community buy in
- I think it went well

**Any other comments you'd like to share?**

- "Mii youth" for what I hope is the start of real change
- It'd be nice to hear/see follow-up from the court with what it does with the feedback
- It was very enlightening to hear the issues faced by people in the community