



STATE OF
NEBRASKA
JUDICIAL BRANCH

Access to Justice
Commission

Consortium of Tribal, State, and Federal Courts

Community
Engagement
Sessions Report



Overview

Consortium of Tribal, State, and Federal Courts

The Nebraska Consortium of Tribal, State, and Federal Courts, co-chaired by Judge Andrea Miller (Judicial District 12, top photo) and Judge Patrick Runge (Winnebago Tribe Chief Judge, bottom photo), traveled to six locations around the state to engage in initial conversations with Nebraska's Native American communities. Nebraska's community engagement activities were coordinated by the Nebraska Supreme Court, Nebraska Administrative Office of the Courts and Probation, Nebraska Court Improvement Project, and Nebraska State Bar Association.



In November 2019, Consortium members as well as Chief Justice Michael Heavican joined facilitators Judge Bill Thorne (retired) and Jenny Walter for events in Omaha, Niobrara, Macy and Winnebago. In August 2022, Consortium members as well as Chief Justice Heavican and other Justices from the Nebraska Supreme Court and the Administrative Office of the Courts and Probation joined facilitator Judge Thorne for events in Scottsbluff and Rushville.



Judge William A. Thorne, Jr., a Pomo/Coast Miwok Indian from northern California, was formerly a judge on the State of Utah Court of Appeals and in the Third District Court. He has served as a tribal court judge in 10 states and is the former president of the National Indian Justice Center, a non-profit that trains tribal court personnel around the country. Nationally known as a leading expert on policies and programs to support children, particularly Native American children and their families, Judge Thorne is currently chair of the Board of Directors for Child Trends, Inc., a non-profit, child-centered research group.

Jenny Walter assists tribes, courts, local governments, and organizations on social reform issues. Ms. Walter's experience includes over twenty-year career as a lawyer for the California Judicial Council where she led a statewide tribal needs assessment, obtained funding for and launched a unit focused on tribal/state relations, initiated and consulted on the documentary, Tribal Justice, served as lead counsel to the California Tribal Court-State Court Forum, and developed statewide policies relating to children, youth, families and concurrent jurisdiction of tribal and state courts.

Overview, Continued

Consortium of Tribal, State, and Federal Courts

The public engagement tour that took place in November 2019 was funded by a grant from the National Center for State Courts and evaluated by the University of Nebraska Public Policy Center. Participants filled out surveys to measure their trust and confidence in the court system with the hope that by engaging in sessions like these, community members will grow greater confidence in the justice system. The grant was expected to also support the public engagement events in Scottsbluff and Rushville. However, because of the pandemic, the events in Scottsbluff and Rushville had to be postponed until August 2022 and were funded by the Nebraska Judicial Branch.

Attendance was robust, with the conversation reaching over 200 members of Nebraska's Native American communities over the six locations. At each location, participants and Consortium members shared a meal and were welcomed by a local community leader through a traditional prayer. Legal Aid of Nebraska provided a Know Your Rights presentation, Judge Miller and Judge Runge presented on the purposes of the Consortium, and Judge Thorne and Ms. Walter led participants through an open dialogue regarding perceptions and experiences involving the court system where attendees aired grievances and frustrations with state, federal, and tribal courts as they have experienced them. The exchange also included information and possible shortfalls of the Indian Child Welfare Act and jurisdictional issues.



Judge Thorne engages with participants in Scottsbluff.

Key Issues

Brought forth during discussion sessions.

1.

There is a need to develop and expand existing resources and education specific to Native Americans and the key stakeholders, including determining the appropriate way to share this education and resources, so that the education and resources emphasize concepts and dispositions that will help the stakeholders become effective decision-makers and/or advocates (e.g., DHHS, judges, attorneys, Court Appointed Special Advocates, Foster Care Review Board, court and probation staff, ICWA specialists, Tribe leadership/government). Education and resources are needed on:

- Historical trauma (e.g., intergenerational, generational)
- Implicit bias
- Cultural sensitivity
- Native American culture
- Environmental racism
- Family law
- Juvenile law
- Restorative Justice
- Indian Child Welfare Act (ICWA)



Key Issues

Brought forth during discussion sessions.

2.

Issues related to ICWA, families and child welfare dominated much of the discussion at each of the events. Concerns raised by the participants related to removals and placements have had a devastating impact Native American families and appeared to have a direct correlation to other issues and concerns raised by the participants like incarceration and addiction. A prominent message by the participants was “remember child welfare” by:

- Establishing ICWA courts or block scheduling of ICWA cases to ensure participation by ICWA specialists
- Developing more education and resources for Native Americans so they understand ICWA and their rights under ICWA
- Expanding the availability of advocates in Tribal courts (e.g., CASA, GALs, peer guides/navigators)
- Developing resources and education on ICWA for others in the Native Americans communities and justice related stakeholders
- Expanding additional support and mentors for families and youth, that support Native youth after they age out of system



Key Issues

Brought forth during discussion sessions.

3.

Promote coordination of tribal, federal, state, and local law enforcement and community corrections, including clarifying jurisdictional issues to address specific issues (e.g., drugs, pursuits, violence, protection orders, emergency protective custody, supervision).

- Full faith and credit
- Retrocession agreements

4.

Develop plain language resources and education for Native American communities to help Native Americans become effective decision-makers and/or advocates.

Examples of education and resources include:

- Record expungement
- Child support and custody
- ICWA
- Driver's license reinstatement
- Advocating when believe have valid complaint about competency of an attorney or fairness of a judge
- Court process and procedure – what to expect when go to court
- Peer guides/navigators to help Native Americans involved in the courts
- Contacts for Native Americans to find answers to general Native American law issues
- Interpreters for the Tribe elders

Key Issues

Brought forth during discussion sessions.

5.

Expansion of services, support, treatment, and resources for Native Americans.

- Substance use
- Mental health
- Homelessness
- Food
- Medical
- General wellness
- Employment/Job training
- Transportation
- Intermediate interventions
- Diversion
- Problem Solving Courts

6.

Facilitate better communication and more timely engagement between the Tribes, DHHS, law enforcement/prosecutors, judges, and court and probation staff. This will facilitate Native American communities having trust and a better understanding of the legal process.

Potential outcomes:

- Improve timeliness of identifying cases governed by Nebraska Indian Child Welfare Act
- More culturally appropriate options and programs available for Native Americans
- Alternative placements and services available for court involved Native Americans



Priority Next Steps

Consortium of Tribal, State, and Federal Courts

The Consortium of Tribal, State, and Federal Courts will continue to meet and provide continued action toward making reforms to the justice system in response to the issues raised during the public engagement sessions.

Since the public engagement sessions, the Consortium has begun to remove barriers to equal access, improve available resources, promote participation of Native American court users, and revise policies and practices in cases governed by the Nebraska Indian Child Welfare Act (Nebraska ICWA). Reforms currently being facilitated by the Consortium include:

- Collaboration with the Supreme Court Commission on Children in the Courts – State Tribal Relations Committee on Nebraska ICWA education for judges and court staff, working with Tribal communities to expand Bridge to Independence services to support Tribal youth aging out of the system, and the standardizing of Nebraska ICWA orders.
- Supporting continued conversation between the Nebraska Supreme Court/Administrative Office of the Courts and Probation with the Legislative and Executive Branch on the need for more services, including culturally appropriate services, to address, mental illness, substance use, homelessness, and employment.
- Supporting the Nebraska Supreme Court/Administrative Office of the Courts and Probation in evaluating the barriers and recommending solutions in order to expand participation of Native Americans in Nebraska Supreme Court/Administrative Office of the Courts and Probation program and services (e.g., Nebraska Problem Solving Courts, Mediation and Restorative Justice).
- Providing court users with information and resources on the jurisdiction of tribal, state, and federal courts.

