



On May 30, 2018 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 May 30, 2018, 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 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.

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

40+ people were in attendance at this listening session.

### Judicial Officers Present:

- Justice David Lillehaug (Minnesota Supreme Court)
- Justice Anne McKeig (Minnesota Supreme Court)
- Judge Bev Benson (Hennepin County Criminal Court)
- Judge Peter Cahill (Hennepin County Juvenile Court)
- Judge Hilary Caligiuri (Hennepin County Juvenile Court)
- Judge Phillip Carruthers (Hennepin County Criminal Court)
- Judge Thomas J. Conley (Hennepin County Criminal Court)
- Judge Charlene Hatcher (Hennepin County Family Court)
- Judge David Piper (Hennepin County Juvenile Court)
- Judge Patrick Robben (Hennepin County Family Court)
- Judge Christian Sande (Hennepin County Family Court)
- Judge Paul Scoggin (Hennepin County Family Court)
- Referee Amy Draeger (Hennepin County Intermittent Referee)
- Referee JaPaul Harris (Hennepin County Juvenile Court)
- Referee Jason Hutchison (Hennepin County Family Court)
- Referee Mary Madden (Hennepin County Family Court)

**Judicial Officers: 16 representing the Minnesota Supreme Court and Hennepin County family, civil and criminal courts**

**Court Staff: 4**

## **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;
- to use what is shared to help the Court ensure needs are met and that rights are respected when interacting with the judicial branch; and
- to provide an update on the efforts by the judicial branch based upon the previous listening sessions.

20+ community members attended the judicial listening session. The Division of Indian Work provided a meal for attendees, which is a cultural norm in the Native American community, which was identified as a key component to producing a greater turnout. After introductions, co-facilitators divided attendees into three small groups with approximately 12 or more people per table leading to discussions at each table.

### **Major Themes of the Session**

These major themes were identified:

#### **1. Enhance Court Resources and Accessibility to the Courts**

- Onsite support needed.
- Offer Native American elder to be available for parties to consult with in monitored waiting rooms (MWR). It would also be helpful to have a Native representative in the courtroom with the parties. There is a stigma about asking for help. One possible solution would be to have the courts make an advocate available to them, 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 have the option to participate without coming downtown.
- Native men that are engaged with the Court feel as if there are not enough resources available to them that address their needs. They would like to see resources such as parenting classes, life skills training, and drug counseling be made available to them.

- In other parts of the state there are tribal representatives provided to Native parties. For instance, the Regional Native Public Defense Corporation that is located in Northern Minnesota. They would like to see something similar to this in the metro area.
- One of the main points of discussion was about the lack of legal assistance available. This includes attorneys, advocates and someone to help them complete and submit their paperwork. There is the feeling that parties need to be extra cautious about what they write down out of fear that it might be used against them. One suggestion was to get the Hennepin County Volunteer Lawyers' Network involved.
- Participants also recommended that a domestic abuse advocate be assigned to both men and women to help guide them through this process.
- Community members would like to receive text messages and phone call reminders of upcoming hearings. This is helpful because often times court proceedings can be stressful and it is easy to miss future hearing dates.
- Transportation and access to the courthouse was also discussed at length. The courthouse is inconvenient for people that have children and busy schedules to come down for court appearances. Community members would like to have more childcare options available to them, as well as additional transportation options, e.g. bus tokens, taxi rides, etc.

## **2. Education for Judicial Officers and Court Staff**

- Community members would like for judicial officers and court staff 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 could benefit from a training on historical trauma, intergenerational trauma, and epigenetics.
- Members of the community engaged in the court system would like for the judicial officers to put themselves into their shoes to see things from their perspective.
- Participants discussed extensively the importance of culture in the system. Non-native people fail to recognize the importance and significance of culture within the Native American community.

## **3. Fear of Court System**

- The Court system is confusing. It would be helpful if there were resources available that would help simplify and explain it.
- Historical Trauma - personal experiences with the court system:
  - People are afraid to engage the system.
  - Participants shared their memories of being removed from their parents when they were young.
  - Parents do not want to risk losing their children.
  - Need culturally specific resources for men to address trauma.
- 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.

#### **4. Fear of Child Protection System**

- Many participants shared their negative experience with the court system isn't with the Court itself, rather it is the attorneys, Guardian ad litem, and Child Protective Services.
- Community members stated that one of their biggest fears is child protection getting involved if they come to the Court requesting relief from domestic violence.
- People that are incarcerated are unable to get information into child protection proceedings. They also are not receiving all of the reports from child protection and the courts.

#### **5. Guardians ad litem (GAL)**

- Many members of the community voiced concerns about the Guardian ad Litem program. There is a lot of confusion around the role of the GAL.
- Community members raised concerns about GAL reports that are incomplete and don't reflect the statements of the parties.
- They would like to see more attorneys and GALs with a Native background because it makes a huge difference when engaging with the Native community. Non-native GALs don't understand the culture of the Native community.
- A recommendation was put forth that only GALs that with a Native background should be engaging with the Native community.
- Participants also provided that pre-hearing reports were not completed far enough in advance. This is a problem because there is not enough time to speak with the tribe about them. They would like at least one week to fully review and speak with their tribe about these reports.
- Community members were frustrated with the lack of involvement by GALs. They mentioned times when a GAL appeared in court to give a recommendation and they never spoke or visited them. Community members would like to have a feedback system put in place so parties can record their experiences with their GAL.

#### **6. Judicial Interaction**

- There is also a lack of transparency in the court system where there is uncertainty about what is going on and how decisions are being made. Some community members also felt as if they are often accused of things without any evidence of it.
- Community members feel as if it is the "system's voice" that is being put forth, not their voices.
- Community members would like for the Court to know what it feels like to be labeled a "loser" by society.
- Community members feel like they have been pre-labeled before they have even been heard.
- Some participants provided their experiences with Judicial officer:
  - The judge had good energy and demonstrated respect.
  - Judge understood what participant was going through.
  - Participants that recently engaged with the civil domestic abuse court felt as if the process was fair.

- 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 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.
- Court can be very intimidating especially the language used. It would be helpful if court orders were written in plain English. It would also be helpful if the judicial officer would explain their orders and the court process to them. Often times judicial officers assume that people understand what is going on because they don't ask questions.
- Community members expressed concern that they were not being heard by the Court. Attorneys, Guardians ad Litem and child protection workers are the ones that have an opportunity to speak. Often times what their attorney is telling the Court is in their own words and not an accurate reflection of what they told them. They would like to talk to the Court directly and speak for themselves.

#### **7. Domestic Abuse No Contact Orders (DANCOS)**

- Participants that have been subject to a Domestic Abuse No Contact Orders (DANCO) feel as if they are too restrictive towards the children that are unprotected. They would still like to maintain communication with their kids even if they are unable to be with them in person. Kids are also affected by DANCOS. People were confused why a DANCO remains in place when both parties agree to dismiss it. Community members subject to DANCOS would like the Court to consider parenting time as a condition of release.
- Community members feel as if they are not given an option to be parents outside of court orders. They would like for the opportunity to see their kids outside of the system.

Evaluations were available for participants to fill out. Participants want to encourage more judicial listening sessions.

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There were a number of excellent suggestions made to improve fairness and equality in our court system. These themes fell largely into either the Court's ability to consider within the District or by referring the issue to the Judicial Council.

For each of the seven themes, the FCEP Management Team reviewed the aforementioned comments, suggestions and proposals to inform priorities. After consideration, the FCEP Management team has tasked Subcommittee 4 with putting together a plan to address the concerns raised during this listening session. This includes engaging with court administration to work on enhancing court facilities and processes. Subcommittee 4 and the FCEP Management Team will also implement a sustainability plan with the concerns/suggestions shared during this listening session in mind.