

Lessons Learned: Engagement with the Native American Community



The Family Court Enhancement Project (FCEP), an initiative funded by the U. S. Department of Justice, Office on Violence Against Women (OVW), is a multi-year demonstration project designed to build the capacity of court systems and partner stakeholders to improve child custody decision-making in cases involving domestic violence. In 2013, four project sites began to assess and strengthen their responses to domestic violence in custody and child-related relief cases: Cook County, Illinois (Chicago); the State of Delaware (all three counties); Hennepin County, Minnesota (Minneapolis); and Multnomah County, Oregon (Portland).

The FCEP enabled the project sites to explore, implement, and assess new and innovative court and non-court procedures and practices designed to improve custody and parenting time decision-making and overcome existing barriers identified during the assessment phase of the project.

“A big part of this project was listening to people in the community ...”¹

In collaboration with the FCEP sites, the National Partners (Battered Women's Justice Project, the National Council of Juvenile and Family Court Judges, and the Center for Court Innovation) articulated the Values and Guiding Principles underlying the FCEP work. Community engagement is woven through each of those values and occurred at all four sites, though it was often implemented in ways unique to each site's community and needs. Community engagement was integral to each of the FCEP's strategies.² Each of the FCEP's sites identified and engaged with their communities in unique ways; their approaches were as distinctive as the communities they served.³ Early on, Hennepin County's Fourth Judicial District Family Court articulated one of its “challenge points” as the disproportionately low court access by the Native American community.⁴ Hennepin County is located in southern Minnesota, and includes Minneapolis and a diverse population of Native Americans from many tribes (with the biggest percentage being Dakota and Ojibwe), as well as two reservations.⁵ This document describes Hennepin County's FCEP work with their Native American community partners, and suggests strategies for other courts in engaging Native American tribes and/or community populations as part of their response to domestic violence and child custody.

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1. Interview with Justice Anne McKeig conducted by NCJFCJ staff at the NCJFCJ Annual Conference, Orlando, Florida, July 29, 2019. Justice McKeig served previously as a family court judge at the Hennepin County pilot site and is currently an Associate Justice on the Minnesota Supreme Court, the first Native American female state supreme court justice in the United States.
 2. For more information on court and community outreach please see the FCEP website for Lessons Learned on Listening Sessions/Feedback and Community Engagement <http://familycourtenhancementproject.org/>
 3. For a general look at the FCEP sites' community engagement see FCEP Lessons Learned: Community Engagement. See also FCEP Lessons Learned: Listening Sessions.
 4. For more information about Hennepin County's experience with the FCEP as well as the resources and tools it developed, see <http://familycourtenhancementproject.org/category/hennepin-county-mn/>.
 5. See supra note 1; see also, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>.
 6. U.S. CTR. FOR DISEASE CONTROL, National Intimate Partner and Sexual Violence Survey: 2010-2012 State Report (2017), see also https://www.cdc.gov/violenceprevention/pdf/cdc_nis-vs_ipvs_report_2013_v17_single_a.pdf.
 7. Listenbee, Robert L., Jr., et al., U.S. DEPT. OF JUST., Report of the Attorney General's National Task Force on Children Exposed to Violence, 27-36 (December 2012).
 8. See supra note 1.
 9. Howze, K. and McKeig, A. (in press) The Greenbook and the Overrepresentation of African American, Hispanic, and Native American Families in the Child Welfare System
 10. See supra note 1.
 11. See Native Listening Session Report – 5.30.18. (2018). Minnesota Judicial Branch, Fourth Judicial District, 1, 5; see also Brave Heart, M., et al., Historical Trauma Among Indigenous

Frequently Asked Questions

Why should courts and judges engage with the Native American community?

American Indian/Alaskan Native (AI/AN) women have one of the highest rates of domestic violence among ethnic groups with 47.5% experiencing domestic violence in their lifetimes.⁶ Children's exposure to violence is similarly disproportionate.⁷ When the Hennepin Court convened with stakeholders to identify its challenges, stakeholders noted that - despite their population within Hennepin County and despite the victimization statistics - the Native American population was rarely coming to or using the family court.⁸ With the FCEP focus on improving the court's response to families in crisis, Hennepin County identified engaging the Native American community as a strategy to address this service gap and find out why the members of the community were not accessing the court's services.

When seeking to engage with the Native American community what about the culture and history of the community should the court understand first?

Engagement of courts with the Native American community can require different strategies depending on whether the court seeks to connect with a tribal government, with members of a tribe, or both. Approaching any type of engagement requires cultural humility and the willingness to be open to learning what you do not know.⁹ Justice McKeig (Minnesota) highlighted several culturally-based approaches to both engage with and welcome Native American communities into the court, including acknowledgement of tribal governments as partners, hosting meetings within the community, accommodating ceremony and language at the court and including tribal flags.¹⁰ At Hennepin County's listening sessions, community members expressed their distrust of the court system based on both their personal experiences and historical trauma.¹¹ The overrepresentation of AI/AN children in state foster care placement is a reality that reinforces survivors' fear that interaction with state courts will lead to loss of custody of their children.¹² Cultural differences from the larger community can also drive frustration with court processes designed to meet the needs of the dominant culture.¹³ For instance, domestic violence no-contact orders can be viewed as interfering with the cultural norms of Native American community parenting and conflict with community practices in parenting and/or participation in ceremony.¹⁴

Who should courts reach out to?

Hennepin FCEP Coordinators and judicial officers created opportunities to share their plans and learn from advocates, batterers' prevention groups, and victims groups.¹⁵ When the stakeholder groups identified as part of the court's core challenges the lack of Native American community members using the court, Hennepin County reached out directly to the local Native American community members living within the county as well as to the neighboring tribes to find out why. Justice McKeig describes starting community outreach in Hennepin County as going out to the community and meeting with community members at batterer's groups and victims' advocacy centers.¹⁶ She also described welcoming ceremonies into the courthouse, which can include reaching out to tribal governments, tribal elders, and/or cultural practitioners to assist the court in planning and implementing such activities in an appropriate way. The process can be started with cultural humility and asking the community members themselves about whom the court should be engaging.

Peoples of the Americas: Concepts, Research, and Clinical Considerations, 43 *Journal of Psychoactive Drugs* 282-290 (2011).

12. U.S. DEP'T OF HEALTH AND HUMAN SERV., *Child Maltreatment 2017*; NCJFCJ, *Technical Assistance Bulletin: Disproportionality Rates for Children of Color in Foster Care* (September 2017).

13. See supra note 11 at Native Listening Session Report – 5.30.18. (2018).

14. Id.

15. See supra note 1.

16. Id.

How to start and sustain conversations with the Native American Community?

Hennepin County used multiple methods to initiate its outreach to the Native American community within the County - listening sessions, guidance documents on tribal court protection orders in Minnesota, and new positions within the Court were all pieces of their community engagement strategy.¹⁷ Each of these pieces provided the Court with an opportunity to learn and to educate. Representatives from the court went directly to the community and then invited them to participate in listening sessions where members of the community could speak directly to the judges and other court professionals.¹⁸ The process was repeated throughout the multi-year project. Hennepin County judicial officers attribute the increase in Native American community member participation in the court system to their perception of being heard.¹⁹ Subsequent to years of listening sessions and some structural changes in response to what they learned, the Court created staff positions (a Native Liaison as well as a Community Outreach Specialist) within the court to both build and help sustain relations between the court and the Native American populations.²⁰

What results did FCEP sites see from such engagement?

In addition to the materials and resources developed for the Native American community to educate them about available legal relief, court processes and services and other topics, Hennepin County implemented practices intended to increase community members' perception of the court as a welcoming, responsive, and useful option.²¹ After receiving a request at a listening session to allow for the cultural practice of smudging at the court, the court was able to implement this request and report this back to the community.²² This increased the community's perception that the court was responsive to their needs, and provided a more welcoming and culturally inclusive atmosphere within the courtroom and buildings. Similarly, the Hennepin County site's incorporation of tribal nation flags within the courthouse was received with great support and led to the practice being implemented in several other courts within the state.²³ Justice McKeig notes that among the information the Court learned at the listening sessions were the difference in understanding of family court purpose and processes between the batterers and the survivors.²⁴ This prompted the Court to develop outreach materials specifically to provide information to Native American survivors on their rights under the Violence Against Women Act (VAWA) and state law regarding protective orders.²⁵

Readers should keep in mind that this document highlights examples that were tailored to Hennepin County's particular communities and resources, and strategies for engagement and inclusion with Native American communities in other settings should be shaped by the particular characteristics and needs of those communities. This may involve strategies not described in this document.

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17. See <http://familycourtenhancementproject.org/safety-and-well-being/court-access-for-native-americans/> for a list of materials developed by the court as well as other resources focused on court access for Native Americans.

18. See supra note 1; see also supra note 11.

19. Id.

20. See, e.g., <http://familycourtenhancementproject.org/wp-content/uploads/2016/07/Community-Outreach-Specialist.pdf> and <http://familycourtenhancementproject.org/wp-content/uploads/2016/07/Native-Liaison-Posting-8.19.15.pdf> for more information about those positions.

21. Considerations for Family Courts' Response to Domestic Violence, Family Court Enhancement Project, available at http://familycourtenhancementproject.org/wp-content/uploads/2019/07/NCJFCJ-FCEP_Considerations-doc.pdf.

22. See supra note 11; see also, supra note 1.

23. See supra note 1.

24. Id.

25. See <http://familycourtenhancementproject.org/wp-content/uploads/2016/07/Tribal-OPF-fact-sheet-.pdf>