



MICHIGAN'S JUDICIARY

SUCCESS STORIES

HOW TRIBAL, STATE, AND FEDERAL
COURTS ARE COLLABORATING TO
BENEFIT MICHIGAN FAMILIES

MESSAGE FROM MICHIGAN SUPREME COURT

JUSTICE BRIDGET MARY MCCORMACK

November 2017

As the Michigan Supreme Court's liaison on tribal issues, I am proud to take part in enhancing the positive working relationship between tribal, state, and federal court systems. The cooperative relationship is not well known by the public at large, but the benefits are important to all.

Our Michigan Tribal State Federal Judicial Forum was created in 2014 to provide an ongoing venue for judges from all three jurisdictions to convene jointly so that we can improve working relations and communication. The work of the Forum is important to all Michigan citizens because it affects how our court systems best serve Michiganders: the ongoing issues regarding jurisdiction among the three courts and how they can function cooperatively; enforcement of orders between them; and transferring cases to best serve the parties are some examples of what we are working on together.



Justice Bridget Mary McCormack

Priorities for the Forum include addressing child welfare issues and ensuring that our respective court systems are meeting the needs of Native American children and families in a way that is culturally sensitive and appropriate. In particular, making certain that our courts are trained in the federal Indian Child Welfare Act (1978) and the Michigan Indian Family Preservation Act (2012) is one of our initiatives.

The success stories included in this booklet help to spotlight the importance of judicial leadership and collaboration between courts, as well as the positive and lasting impact of these relationships on communities, families, and children across the state.

In addition to several inspiring jurists who currently serve on the Forum, we have featured my predecessor, retired Justice Michael F. Cavanagh, whose dedication, vision, and passion have helped to lay the groundwork for the collaboration among these three jurisdictions. I am honored to follow in his footsteps as MSC liaison and am grateful for his continued involvement with the Forum. Justice Cavanagh continues to be an inspiration.

Finally, we have included essential information about the Forum, including the Charter (or "Naakonigewin"), as well as a list of tribal, state, and federal judges who currently serve. I applaud the commitment and enthusiasm of these members, who take time out of their busy dockets to come together several times a year and share ideas to help our justice system be more effective in resolving issues that cross jurisdictional boundaries.

By working together on these issues, our courts can make sure that children and families benefit from a unified and seamless approach that protects their health and welfare. For more information, visit www.courts.mi.gov/tribalcourts.



A handwritten signature in black ink that reads "Bridget Mary McCormack".

TABLE OF CONTENTS



TRIBAL CHIEF JUDGE MICHAEL PETOSKEY AND JUDGE SUSAN DOBRICH	4
Michigan Tribal Judicial Forum Builds Trust and Spurs Cooperation on Child Support Issues in Southwest Michigan	
TRIBAL CHIEF JUDGE JOCELYN FABRY AND MAGISTRATE JUDGE TIMOTHY GREELEY	8
'Ripple Effects' of Tribal & Federal Court Collaboration Are Felt Throughout Local Community	
TRIBAL CHIEF JUDGE ALLIE GREENLEAF MALDONADO AND RET. JUDGE FREDERICK MULHAUSER	12
'Baby Steps': How Two Northern Michigan Courts Built an Enduring Partnership That Sets up Children to Succeed	
TRIBAL CHIEF JUDGE PATRICK SHANNON AND SAGINAW CHIPPEWA TRIBAL COURT	16
Saginaw Chippewa Tribal Court Embraces 'Spirit of Collaboration' Inside and Outside of the Tribal Community	
QUESTION AND ANSWER WITH JUDGE TIMOTHY CONNORS	19
JUDGE ROBERT JOHN BUTTS	20
Court, Tribe, & State Agency: How These Entities Banded Together to Benefit Cheboygan Children	
RET. JUSTICE MICHAEL F. CAVANAGH	22
Former Justice Cavanagh on Pioneering the Collaboration with Tribal Courts	
MICHIGAN TRIBAL STATE FEDERAL JUDICIAL FORUM MEMBERS	25
FORUM CHARTER (OR "NAAKONIGEWIN")	26

CHIEF JUDGE MICHAEL PETOSKEY & CHIEF JUDGE SUSAN DOBRICH

Michigan Tribal Judicial Forum Builds Trust and Spurs Cooperation on Child Support Issues in Southwest Michigan

Chief Judge Michael Petoskey is very familiar with Michigan tribal courts. Although he currently serves as the Chief Judge for both the Pokagon Band of Potawatomi Indians and the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians, Chief Judge Petoskey has served on the bench for all seven of Michigan's Lower Peninsula tribes during his career since first being appointed in 1985 as Chief Judge of his own Tribe, The Grand Traverse Band of Ottawa and Chippewa Indians.

During his time on the bench, Chief Judge Petoskey has been involved in the establishment and development of positive relationships and collaboration between tribal, state, and federal courts.

In 1992, the initial Tribal State Court Forum was convened, bringing together tribal and state judges for the first time. The group was founded by then-Chief Justice of the Michigan Supreme Court Michael F. Cavanagh, Judge Petoskey, and others, with the goal of developing strategies for cooperation and avoiding jurisdictional conflicts.

Chief Judge Petoskey still remembers



Tribal Judge Michael Petoskey

the words of Justice Cavanagh at the Forum's inaugural meeting. Although the original Forum lasted for just a year, his words laid the foundation for its successor, the Michigan Tribal State Federal Judicial Forum, which is active today.

"We know we will learn more from you than you will from us," Justice Cavanagh told the tribal judges. Then, he addressed both state judges



and tribal judges alike: “By working together, we will each be able to serve our respective constituents better.”

Following the first Forum in 1992, the group made a series of recommendations, all of which were adopted, and the State Bar of Michigan established a Standing Committee on American Indian Law to implement those recommendations.

“The most important recommendation of the Forum was that the Michigan Supreme Court consider adopting a court rule that would provide for state court recognition and enforcement of tribal court judgments,” said Chief Judge Petoskey. In 1996, the Michigan Supreme Court adopted such a rule, ordering that state courts recognize subpoenas, warrants, and other judicial acts as long as that federally recognized tribe recognized the same orders from the Michigan courts.

“For many of us, that was a huge step forward in terms of people beginning

to recognize that tribal courts are a member of the family of governments,” said Chief Judge Petoskey. “Not only are tribes a member of the family of government, but its courts are legitimate courts whose judgments and orders ought to be recognized on par with those coming from a state court.”

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-Judge Michael Petoskey

Consistent with this concept, Chief Judge Petoskey has developed a positive working relationship over the years with Chief Judge Susan Dobrich, of the Cass County Probate Court. The two judges originally met at a new judge training run by the State Court Administrative Office and continued working together on the judicial Forum.

“Even though tribal judges represent sovereign nations, sometimes the Michigan courts do not provide the proper amount of respect for the authority of that tribal court,” said Chief Judge Dobrich. “Through the Forum, we work on recommendations to provide a better working relationship between the state and tribal courts.”

Chief Judge Petoskey also works to spotlight the Pokagon Band’s enforcement of thousands of child

support orders from states like Michigan and Indiana that may have otherwise gone unenforced. According to a Pokagon Band court report, the Tribe had collected more than \$3 million in child support payments in the last 10 years for Michigan alone. The majority of the cases are orders on non-Native cases.

The Pokagon Band is just one of 12 federally-recognized tribes in the state, a fact Chief Judge Petoskey was sure to point out when emphasizing how hard all the tribes work to collect funds for the children of Michigan and other states.

"I have three full-time clerks, and one of them spends 75 percent of their time just doing state court child support orders," said Chief Judge Petoskey.

Ultimately, he said, the Tribe's work on enforcing orders has laid groundwork for collaboration on other efforts as well.

For instance, when the Pokagon Band had its first divorce case filed, the Tribe did not have the legal infrastructure or need to enter child support orders due to its very limited territorial jurisdiction and human activity on such land. In fact, at the time, the Tribe's divorce code was enacted just months earlier.

The Tribe needed help gathering



Brian, a Pokagon Band of Potawatomi Indians drummer, at 2017 Cass County Family Reunification Day.

integral income information to properly establish child support and to enforce its child support orders when the responsible party lives or works outside of Indian country. Thanks to her previous work with Chief Judge Petoskey on the Forum, Chief Judge Dobrich was happy to help.

"They have the legal authority to do divorces, but they don't have the legal mechanism to handle the child support like we do, because we receive federal dollars under Title IV-D of the Social Security Act," explained Chief Judge Dobrich. "We have worked out an arrangement where the Tribe handles the divorce, but we'll handle the child support enforcement for them because we have the software, computers, and funding under Title IV-D, as we're part of the state system and can do so."



Thus, Cass County Friend of the Court will formulate and make a child support recommendation to the Pokagon Band court for its consideration. In addition, the Cass County Friend of the Court will utilize its enforcement tools to assist the Pokagon Band court with enforcement when needed.

Stephen Rambeaux, the Pokagon Band Court Administrator, said the information Cass County can gather from employers and from the Social Security Administration provides a great tool for the Tribe when settling divorce and child support cases. Without that pertinent income information, the Tribe would not be able to set adequate child support orders.

By working together, both Chief Judge Petoskey and Chief Judge Dobrich were able to make their courts serve their people better, achieving the initial goal set by Justice Cavanagh back in 1992. The Pokagon Band works hard to collect millions of dollars in child support for Michigan families that may have otherwise gone uncollected. Likewise, Chief Judge Dobrich's state court works to collect information for the Tribe and enforce the Tribe's rulings outside its jurisdiction.

Through this collaboration, not only are relationships stronger between the tribal and the state courts, but local families and children are ultimately better off. 🛠️



"Through the Forum, we work on recommendations to provide a better working relationship between the state and tribal courts."

-Chief Judge Dobrich



Carol Bealor, Cass County Court Administrator, left and Chief Judge Dobrich at the 2017 Cass County Family Reunification Day celebration.

... CHIEF JUDGE JOCELYN FABRY & MAGISTRATE JUDGE TIMOTHY GREELEY ...

'Ripple Effects' of Tribal & Federal Court Collaboration Are Felt Throughout Local Community

Chief Judge Jocelyn Fabry, of the Sault Ste. Marie Chippewa Tribal Court, believes tribal courts are particularly important due to their ability to be cognizant of the cultural differences and specific needs of tribal people.

"Courts are meant to be a forum for the community to resolve disputes. Who better to resolve disputes among tribal people than the tribal court?" asked Chief Judge Fabry. "They are attuned to the cultural and social differences that are inherent within our community."

There are other practical benefits as well. Tribal courts often have lighter caseloads than other courts, said Chief Judge Fabry, which allows tribes to provide more intensive rehabilitation and address problems in a timelier manner. Unfortunately, this means that on cases where both tribes and the federal government have jurisdiction, as in felony cases, the two entities can often move out of sync. When this occurs, it becomes even more important that the tribal and federal courts work together on cases.

Fortunately, Chief Judge Fabry has a partner in Magistrate Judge Timothy Greeley, a magistrate judge for the



Chief Judge Jocelyn Fabry

U.S. District Court for the Western District of Michigan in Marquette. The two met on the Michigan Tribal State Federal Judicial Forum, a group made up of tribal, state, and federal judges who meet regularly to work on collaborative endeavors and draft recommendations pertaining to the tribal courts.

When Judge Greeley first met Chief Judge Fabry, he invited the Tribe's feedback on mutual cases. After all, Judge Greeley said, although the federal government has jurisdiction



over felony cases, the tribe itself is often hit with the greatest impact in each case.

"We're not doing our job well unless we collaborate with the tribe and understand the tribe's needs and how what we do will influence that tribe," said Judge Greeley.

"There are different ways to deal with the same types of problems. The federal court's way may not always be the best way."

Chief Judge Fabry told a story of a woman who was placed into the Tribe's drug program after several probation violations for drug use. The woman was doing very well in the drug court program and maintained sobriety for several months, the longest stretch for her in decades.

Unfortunately, her case was moving far slower on the federal level.

"The federal system operates a little more slowly than we would like," said Chief Judge Fabry. "She was arrested on federal charges while she was involved in our drug court for the same case that brought her here."

"Having the opportunity to form a working relationship with the federal court for the benefit of our tribal members has been incredibly rewarding."

-Chief Judge Fabry

For Chief Judge Fabry, this was a dilemma. Here was a woman who was being successfully rehabilitated in a tribal drug court program, but now arrested on serious federal charges.

This prompted Chief Judge Fabry to write a letter to Judge Greeley describing the Tribe's drug court program. She invited the federal judge to sentence defendants, when appropriate, to the Tribe's drug court program, which allowed the Tribe to monitor participants' rehabilitation.

"In her case, that's what he did," recalled Judge Fabry. "She was looking at going back to federal prison. That decision by Judge

Greeley made all the difference in the world and in her life."

Ultimately, the woman successfully completed the Tribe's drug court program and was released from federal jurisdiction. She still resides on the Tribe's reservation as a sober resident and has reconnected with members of her family she had not spoken to in years.

For Chief Judge Fabry, courts can be the great tools of intervention, making a permanent and positive impact in people's lives. After all, she says, most people want to live a better life, and the positive impact courts have can set people on a positive trajectory for their entire lives.

"Not many people grow up and say 'I want to be a criminal' or 'I want my children removed and placed in the foster care system,'" said Chief Judge Fabry. "Once they get to the courts, they're at a crossroads. This is an opportune time for intervention."

Chief Judge Fabry said that changes often have a "ripple effect," especially in tribes where relationships and

"We're not doing our job well unless we collaborate with the tribe and understand the tribe's needs and how what we do will influence that tribe."

-Judge Greeley



Magistrate Judge Timothy Greeley

communities are so close. As a result, court decisions can have wide-reaching implications in a tight-knit tribal community.

"We want to give people the opportunity to change, which will hopefully have a ripple effect," said Chief Judge Fabry. "Maybe they have their children returned home or they become employed, which is a benefit to the public."





"The ripple effects of that in our community can't be measured," said Chief Judge Fabry. "I take what Judge Greeley did out of respect for the Tribe and out of trust for what we are doing in our tribal court."

These collaborations have been integral in rebuilding trust, much of which had been nonexistent after centuries of poor relations between American Indians and the United States government.

"If you're familiar at all with the history between the federal government and the tribal government, to say it always hasn't been positive would be a significant understatement," Chief Judge Fabry said. "There's a lot of rebuilding of trust and relationships that needs to occur. Having the opportunity to form a working relationship with the federal court for the benefit of our tribal members has been incredibly rewarding."

Although relationships are still being forged and strengthened, Chief Judge Fabry is happy with her experience attending the Michigan Tribal State Federal Judicial Forum and thankful for everything she has learned so far.

"Sometimes being a judge feels very isolating, so it's wonderful to get

together with other judges, regardless of who they are," said Chief Judge Fabry. "I'm always learning something at every session." ✍️

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-Chief Judge Fabry

... CHIEF JUDGE ALLIE GREENLEAF MALDONADO & RET. JUDGE FRED MULHAUSER

'Baby Steps': How Two Northern Michigan Courts Built an Enduring Partnership That Sets up Children to Succeed

"Take it one step at a time." This age-old advice rings true in many circumstances.

In particular, it could describe the longtime collaboration between the Little Traverse Bay Bands of Odawa Indians Tribal Court, headed by Chief Judge Allie Greenleaf Maldonado, and Emmet County Probate Court, which was run by Judge Frederick Mulhauser until his recent retirement.

When Michigan's judiciary initially embraced the model of problem-solving courts, the mentality was that of a careful process of building strong and effective programs to provide nonviolent offenders an alternative to incarceration. Almost 20 years later, Michigan's problem-solving courts have become national leaders and emblematic of the importance of collaboration and community effort.

Similarly, the emphasis on building—rather than jumping—to success, combined with a commitment to collaboration, applies to the partnership of these two courts. During their 20-year collaboration on juvenile drug court and court school initiatives,



Chief Judge Allie Greenleaf Maldonado

specifically, their small steps have turned into big leaps of progress.

Collaboration between Chief Judge Maldonado's court and Judge Mulhauser's court came out of community-based thinking, as well as understanding the unique aspects of both the Native community there, and Northern Michigan's unique community as a whole.

"I live here, I raised my kids here, and I know that statistically, the other



kids who live here are going to stay here,” said Judge Mulhauser. “It’s in our best interest that we all function as cooperatively and helpfully as possible.”

Taking shape in the early 2000s, Judge Mulhauser’s court became one of the first courts in Michigan to embrace a juvenile drug court program model and a court school. As an effort to not only administrate justice, but also to help participants build successful lives, Judge Mulhauser’s innovative court programs have allowed young participants to enter back into the community with tools to succeed and thrive, using techniques similar to the peacemaking strategies used in tribal courts across the state.

Being familiar with Judge Mulhauser’s programs and the peacemaking approach, Chief Judge Maldonado saw potential for their application in her own court.

“Because the number of Little Traverse

Bay Bands Tribal citizens is so small in our area, we can’t afford to discount anyone. When people come through the criminal justice system, the typical ‘winner-takes-all’ scenarios are really ‘loser’ scenarios because the impact bleeds into the community very quickly.”

“If you can pull them back into their community and give them a role and help them understand who they are and what their place is in the world, that sense of identity and pride helps them feel better and achieve more.”

—Chief Judge Maldonado

But now in the courts, she said, “There’s a real effort to help people not just be accountable for their actions, but to look at how they got where they are, and help them not become a repeat offender. I think that everybody’s coming around to the tribal view that rehabilitation is really important, too.”

Developing the tailored programming and initiatives these programs utilize today took time and a bit of trial and error—no pun intended.

“I started my job in 1989, when there was no tribal court to speak of. I’ve worked with several tribal judges during my time in the court, attending meetings with their court personnel, probation staffs, and child care staffs, in order to share our goal for these kids to

recover, become productive, and have a meaningful life,” explained Judge Mulhauser.

“Progress came from a series of baby steps; it wasn’t a grand vision. It was what didn’t work, what might’ve worked, and what we could put on top of that.”

As time progressed, collaboration between these two courts flourished, with Judge Mulhauser’s court utilizing the Little Traverse Bay Bands’ successful sobriety court programs and Chief Judge Maldonado’s court using Emmet County’s well-developed court school program.

“Once they are in our court, we have worked to utilize the resources Judge Mulhauser put in place in Emmet County—the number one thing being his court school. His court school is innovative, it’s groundbreaking, and it’s a model that the rest of the state, if not the country, should look to,” remarked Chief Judge Maldonado.

The court school and juvenile drug treatment court programs focus on adolescent brain development and developing treatment plans that improve the youth’s functioning while addressing educational and vocational skills deficits. These plans take into account personal, emotional, and family problems.



Judge Fred Mulhauser

Through social activities and supportive environments, the kids who enter and exit the drug treatment court are provided with a variety of tools to deal with their issues. The programs try to cater much of their programming to each individual child, which often comes in the form of Native American cultural activities for many of Chief Judge Maldonado’s cases.

“They often do basket making. There’s an opportunity to pick sweet grass



in the summertime, and they can harvest birch bark for traditional basket making. We also have ghost suppers, where the kids might serve or are in charge of making sure the fire is lit,” she shared. “If you can pull them back into their community and give them a role and help them understand who they are and what their place is in the world, that sense of identity and pride helps them feel better and achieve more.”

It is the smaller steps such as these that have helped build up their shared community through restorative justice. Judge Mulhauser and Chief Judge Maldonado note that they have often been seen as both judges and social workers, as a result.

“Most judges do not enter their work with a social worker’s mentality, which I find is still missing in our court system. If you are going to be effective, you have to start wondering about how you can create effective solutions,” said Judge Mulhauser.

Chief Judge Maldonado recalled, “I had a probation officer who used to call me the ‘chief social worker,’ because I was always looking for accountability, but more importantly, for solutions to problems.”

“I want to change the entire child welfare system in this country,” she continued. “I would like us to look

at child welfare through a problem-solving lens. Seeing what Judge Mulhauser has built has made me braver, and it has made me think outside the box.”

Judge Mulhauser shared, “I’ve had many instances where judges from around the state have wanted to come and see our court school. Often times, they say, ‘Wow! How do you do what you are doing? I don’t think that we could do it.’ They are defeated by the concept of not being able to pull it off. And I always say to them, ‘Don’t start here; start with what you can do and then do a little more. Whatever you do is going to be better than what you’ve already got.’”

Both courts continue to work together to build success stories and impact their community, as a whole—one step and one child at a time.

Chief Judge Maldonado encapsulates why this collaboration has been successful by sharing an Odawa quote: “Do not condemn the person with a problem, but show them friendship and compassion. If we only look at the person and the problem with anger or hate, nothing will ever be accomplished.” ✎

CHIEF JUDGE PATRICK SHANNON & SAGINAW CHIPPEWA TRIBAL COURT

Saginaw Chippewa Tribal Court Embraces 'Spirit of Collaboration' Inside And Outside of the Tribal Community

As the issue of substance abuse—opioids, in particular—has grown across the country and state to epidemic proportions, it also has grown within sovereign nations, and Michigan's Saginaw Chippewa Indian Tribe is no exception.

One major way that the Tribe has targeted addiction is through its Tribal Court's Healing to Wellness program, which has made its presence known on a regional and national scale during the last year.

During the Michigan Association of Treatment Court Professionals annual conference in March, for example, the Tribal Court delegation presented a workshop entitled, "Tribal Community Health and Opioid Abuse: An Integrative Approach."

"It was the first opportunity for our Tribal Court to speak about some of the collaborative efforts we have done within the tribal community," explained Tribal Court Chief Judge Patrick Shannon. "We demonstrated the support we had from the tribal community from the Healing to Wellness program, to establish a



Saginaw Chippewa Tribal Court Chief Judge Patrick Shannon at the 2017 MATCP Conference.

Families Against Narcotics chapter, to broaden alternatives to pain management, and to embrace cultural teachings."

Tribal Chief Frank Cloutier and the Tribal Council asserted the issue of opioid addiction and its effect on health care remain a priority for their administration.



“We are willing to embrace opportunities like this in the spirit of collaboration,” Chief Cloutier said. “Even at our Tribal Summit with Governor Snyder last year, we were planting the seeds of combining resources to bring in all our tribal departments.”

On a national level, the Saginaw Chippewa Tribe embraced an opportunity earlier this year to participate as one of six tribes across Indian Country to receive an assessment of its Tribal Court by the U.S. Department of the Interior Bureau of Indian Affairs. Chief Cloutier, Tribal Council, Chief Judge Shannon, and the Tribal Court staff met with Chief Judge Eric Mehnert, of the Penobscot Nation Tribal Court of Indian Island, Maine.

“Our Tribal Council was pleased to be one of the few selected and invited to take an active role in the program,” Chief Cloutier said.

Judge Mehnert, who also sits on the bench as a wellness judge for the Hopi Tribe of Arizona, was joined by Chief Judge Mark Esqueda, of the Lac Vieux Desert Band of Lake Superior Chippewa Indians, and Supreme Court Judge Shannon Edwards, of the Oklahoma Osage Nation.

The judges conducted individual interviews with Tribal Court personnel,

the Healing to Wellness Court Committee members, and several departments – Nimkee Memorial Wellness Center, Behavioral Health, and Tribal Police – who interact with tribal courts on a regular basis.

“The assessment is really a chance for Tribal Members and stakeholders of the system to offer their thoughts on what the court does well, where it has some challenges, and where it can make some improvements so it can better serve the community,” Chief Judge Shannon said. “When the information all comes together and is shared, we can see a lot of growth toward what is being done within the Tribal Court.”

He added, “It is truly an innovative process and, according to what we have heard from the assessment team, we are on the cutting edge of what is being done with Tribal Healing to Wellness courts across the country.”

This summer, Tribal Court Magistrate Carol Jackson, Prosecutor Graham Leach, Healing to Wellness Case Manager Aubree Gross, and other team members attended the National Association of Drug Court Professionals annual conference in Washington, D.C. This year’s conference marked the first year when NADCP offered a special track of curriculum for tribal court professionals.



Saginaw Chippewa Tribal Court staff. Front row (l to r): Jeannie Robinson, Deputy Court Clerk; Cathy Matthews, Probation Officer; Kelly Smith, Deputy Court Clerk; Jennifer Wassegijig, Probation Officer; Luann Louch, Deputy Court Clerk/Appellate Court Clerk; Christina Delacruz, Deputy Court Clerk; Estella Halliwill, Deputy Court Clerk; and Joseph Sowmick, Healing to Wellness Coordinator. Back row (l to r): Chief Judge Shannon; Carol Jackson, Magistrate; Prentiss Brown, Senior Judge. (Not pictured: Joe Hudson, Bailiff; and Aaron Graveratte, Business Manager.)

“The conference highlighted important and relevant factors pertaining to treatment courts across the nation,” Gross said. “Attending conferences such as the NADCP is important in ensuring Healing to Wellness team members are up-to-date on the latest information.”

Healing to Wellness Court is completing many of the key components highlighted in successful treatment courts, Gross added.

According to NADCP, Saginaw Chippewa Tribal Court’s program is one of 82 Tribal Healing to Wellness courts across the country.

Chief Judge Shannon is proud the Tribe is making its voice heard on so many levels.

“This conference provided the opportunity for our Healing to Wellness court personnel to interact with other tribal and state court professionals who are facing the opioid crisis in their judicial systems. Invariably, the participants each obtained ideas for solutions to work with our clients,” he said. “Whether the meeting is tribal, local, state, regional, or national in context, such meetings benefit what we do here to save lives and promote a healthy lifestyle.”



... JUDGE TIMOTHY CONNORS ...

Question and Answer with Judge Timothy Connors of the 22nd Circuit Court & Washtenaw County Peacemaking Court; and Co-Chair, Michigan Tribal State Federal Judicial Forum

Michigan Supreme Court: *Why did you embrace peacemaking in the court so fully, and in what ways do you see it affecting your community?*

Judge Connors: Because it works. The effectiveness of peacemaking or restorative justice as a concurrent path for conflict resolution in state courts is a national trend. The results are better outcomes for youth, families, communities, and justice systems.

MSC: *Can you elaborate on the ways in which you foster collaboration with the tribal courts in our state?*

JC: Peacemaking is a gift shared with us from our Tribal neighbors. When we honor and share this gift in a good way, both communities benefit.

MSC: *In what ways has serving on the Forum informed your work in your own court?*

JC: Awareness. A deeper appreciation for where we have been, why we are facing the challenges we have now, and where we need to go.

MSC: *How has peacemaking strategy aided you in addressing highly sensitive cases such as juvenile and family cases?*

JC: By focusing on the root core values of resiliency and healing: relationships, responsibility, respect, and renewal. As opposed to emphasizing the core energy of dismemberment and disconnect: power, property, proscription, and punishment.

MSC: *How did your work as Judge Pro Tem for the Little Traverse Bay Bands of Odawa Indians influence the work you do now in Washtenaw County?*

JC: Every experience I have had with our tribal courts in and outside of Michigan—the depth, the humility, the kindness, the honesty, the bravery, and the wisdom I have seen consistently demonstrated by Tribal Judges in this country—has profoundly affected me. ↖



Judge Connors and the Washtenaw Peacemaking Court team

... JUDGE ROBERT JOHN BUTTS ...

Court, Tribe, & State Agency: How These Entities Banded Together to Benefit Cheboygan Children

On many occasions, Cheboygan County Probate and Family Court Judge Robert John Butts has had personal experience with the cooperative spirit that exists between his county, the Michigan Department of Health and Human Services (DHHS), and Michigan's tribal community.

Specifically, Judge Butts recalls one very complex case that resulted in the collective efforts of the court, the MDHHS, and the Pokagon Band of Potawatomi Indians ("Tribe"). Through mutual efforts, they were able to provide the best services for three children embroiled not only in a child protection proceeding, but also delinquency proceedings for each child.

The three teenage children involved were in the home of their aged grandparents/guardians who were the named respondents. The biological parents are currently incarcerated for an extended period of time. The MDHHS and the Tribe all worked diligently in finding the best possible foster and residential placements tailored to fit the specific needs of each child.

"The prime benefits of working together are the services that we can all assist each other with," explained Judge Butts. "In this case that I am referring to, the Tribe was able to help us out financially as well. They were



From left to right: Cheboygan County Probate Register Patricia Hansen, Judge Robert John Butts, and DHHS Children's Services Specialist Katelyn Engler

able to help by providing substance abuse services for a member in their Tribe, where it was not clear that we would be able to do so."

In addition to the Tribe providing help and funding to assist this family, they also arranged an expanded communication system to allow for the multiple parties in the matter to participate in the proceedings. Judge Butts says that the key in neglect and abuse cases is to have everyone who is important to the family included in the resolution.



"We want to have not only mom and dad, but grandma and grandpa, friends of the family, and the Tribe involved and present," Judge Butts remarked. "Not only do we have a group of people on the phone, but we have a courtroom full of people too, who are interested in these kids and hoping to change their behavior and provide them a stable home. The tribal attorney and/or tribal social workers attended and participated in all hearings."

Collectively, all three entities—the Tribe, DHHS, and the Court—examined what services were needed to provide for the welfare of the family. Through active communication and cooperation, they were able to work together with their available resources to achieve the common goal.

Although the different entities have been able to succeed, working in partnership is still an ongoing effort. While there was no direct contact in this case, the judges set the tone for tribal and state court relations, according to Judge Butts.

"The Indian Child Welfare Act was passed many years ago but as far as courts being aware of its requirements, that has been a long slow process," Judge Butts said. "I would say that the State Court Administrative Office's Court Improvement Program that created the Tribal Relations Committee is what really started the training. The creation of various information guides for the courts and ultimately the changing in the court rules and the passing of the Michigan

Indian Family Preservation Act, has all contributed to success over the years."

Cheboygan County Probate Register Patricia Hansen, who works closely with Judge Butts, says the interaction among the state and tribes is fundamental.

"I think that the courts, within the last 10 years or so, have really realized what the tribes could offer us," she shared. "Through partnership, as everything has evolved, the ties have grown stronger to where we are relying on one another. Together, we are able to fill in certain service gaps with the variety of services that the DHHS, state courts, and tribes are able to provide."

Judge Butts remarked, "To me, it's a focus on not necessarily the judge communicating with the judge, but the cooperation between the Tribe and DHHS, which is what is going to resolve cases and help the families involved. Two key things for success are notice and active efforts. You need to notify the Tribe from day one, and you need to be looking at active efforts. The direct communication between the DHHS worker and tribal services workers was the key to successful services and complying with the active efforts requirement."

Judge Butts is proud to be involved with a working network of support among both courts and encourages them to work together to continue the positive impacts on their communities and local families. ✍️

RET. JUSTICE MICHAEL F. CAVANAGH

Former Justice Cavanagh on Pioneering the Collaboration with Tribal Courts

"The aims are still the same. I think the main effort still has got to be in educating state court judges and courts about the existence of tribal courts about how we can work together."

So says retired Michigan Supreme Court Justice Michael Cavanagh about the importance of bringing these courts together. It was while he served as Chief Justice from 1991 to 1995, that his involvement with the tribal courts began. He was at a conference of chief justices and conversed with a representative of the National Center for State Courts.

"We got talking about tribal courts. That was his area of expertise. He noted that Michigan, at that time, had eight federally recognized tribes. He offered a grant if I was interested in establishing a Michigan Indian Tribal Court – State Trial Court Forum. I told him I was," recalled Justice Cavanagh.

He began to establish a relationship between tribal, state, and federal courts. He wanted to educate judges and courts around the state about tribal courts, specifically their procedures and practices. The goals were to establish a more dependable form of unity and communication among the three court systems.



Ret. Justice Michael F. Cavanagh

"Frankly, back then, I was somewhat embarrassed as to how little I knew about Michigan's tribal courts, and the fact that the vast majority of state court judges were equally uninformed about it," he remarked. "That was the start, and we convened the first Michigan Indian Tribal Court – State Trial Court Forum with representatives from the tribal courts."

Justice Cavanagh says Chief Judge Michael Petoskey of the Pokagon Band of Potawatomi and the Match-E-Be-Nash-





She-Wish Band of Pottawatomi, was very influential in the establishment of the Forum and they became fast friends while working on a solution together. He says that the first Indian Tribal Court – State Trial Court Forum set the foundation for where the state of Michigan is today.

In 1992, the first Forum met four times over the course of a year. However, nothing formal was established and the Forum was restricted to one year. As Justice Cavanagh continued to build relationships among tribal and state courts, it was his goal to reestablish a Forum in the future. With the help of Justice Cavanagh and others, the Michigan Tribal State Federal Judicial Forum was established in 2014. Unlike the original, today's Forum now includes federal representatives.

"The aims I think the has got to state court courts abo of tribal co we can wo

"I think what the first Forum accomplished was very significant, and there has been a consistent effort since that time through the State Bar of Michigan to increase awareness of tribal courts," explained Justice Cavanagh. "All of our tribal courts, their judges, their court rules, and their constitutions are outlined in the annual Bar Journal. Any lawyer having a matter before the tribal

court can look in the Bar Journal and become familiar with the court rules and constitution of that tribe.”

Another significant accomplishment of that first Forum was persuading the Supreme Court to adopt a court rule providing for reciprocity in recognition of tribal court judgments. With any tribe that recognizes state court judgments, the state would recognize tribal court judgments.

One major outcome of this relationship, according to Justice Cavanagh, is that with recognition of state courts on behalf of the tribal courts, millions of dollars in outstanding child support has been recognized and paid for from members of tribes throughout the state.

"The tribe in effect garnishes a certain sum out of the wages have outstanding child rds it to the friend of the offices. That is an ongoing l. "The Grand Traverse Bay nd Chippewa Indians for etty healthy record of rcement."

"The aims are still the same. I think the main effort still has got to be in educating state court judges and courts about the existence of tribal courts about how we can work together."

-Justice Cavanagh

While the first Forum in 1992 had significant accomplishments, the collaboration between tribal, state, and federal courts has ongoing determination. There are still efforts in which the different courts are collaborating together to learn from similarities and differences.

Washtenaw County Circuit Court Judge Timothy Connors is currently the co-chair of what is now known as the Michigan Tribal State Federal Judicial Forum, along with Chief Judge Allie Greenleaf Maldonado of the Little Traverse Bay Bands of Odawa Indians.

In Ann Arbor, Judge Connors has implemented a peacemaking court that is modeled after tribal court systems. The motive in a peacemaking court, as with tribal courts, is to establish a solution to the issue that both parties can find satisfactory. The state systems use mediation very extensively, which approaches a similar type of solution to dealing with problems. Justice Cavanagh says Judge Connors' efforts involving the peacemaking court model are steps in the right direction.

"I have always maintained that our state courts can benefit greatly from becoming familiar with tribal court procedures and practices and the peacemaking model. In our state court system, it's an adversarial system, somebody has to

win and somebody has to lose," he said. "The tribal court system, the peacemaking model, is not like that. It's less formal and rigid and hidebound by court rules as our state system is. It seeks to bring the parties together and come up with a solution to the problem that both parties can accept."

Justice Cavanagh says that in tribal courts, one way of finding a solution to an issue would be to get the family involved.

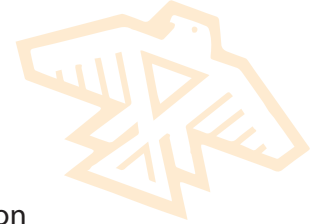
"It wouldn't be unusual for a tribal judge in a juvenile delinquent matter to say, 'I want to know what this child's grandmother would have to say about this, what she thinks the problem is, or how she thinks this could be resolved.' They try to get down to the basics and find out what the root of the problem is. I think the state system can benefit greatly along those lines," he shared.

Creating the relationship that was built upon the first Tribal State Court Forum has allowed for both tribal and state courts to learn from each other. The overall success from the Forum has been exemplified in the developing relationship and trust among the separate courts.

Overall, Justice Cavanagh remarked, "I think we have come a long way, but I still think we have a way to go." ✎



MICHIGAN TRIBAL STATE FEDERAL JUDICIAL FORUM MEMBERS



Judge Terence J. Ackert Kent County Probate Court
Judge Timothy Connors Washtenaw County Circuit Court, Family Division
Chief Judge Susan Dobrich Cass County Probate Court, Family Division
Judge William Ervin Isabella County Probate Court
Judge Beth A. Gibson 92nd District Court
Judge W. Clayton Graham Luce/Mackinac County Probate Court
Judge Cheryl Hill Marquette County Probate Court
Chief Judge James Lambros Chippewa County Circuit Court, Family Division
Judge Jeffrey Nellis Mason County Probate Court
Chief Judge Larry Nelson Leelanau County Family & Probate Court

Chief Judge Bradley Dakota Keweenaw Bay Indian Community
Chief Judge Mark Esqueda Lac Vieux Desert Band of Lake Superior Chippewa Indians
Chief Judge Jocelyn Fabry Sault Ste. Marie Tribe of Chippewa Indians
Judge Matthew Fletcher Pokagon Band of Potawatomi Indians
Chief Judge Allie Maldonado Little Traverse Bay Bands of Odawa Indians
Judge Anne McNamara Hannahville Indian Community
Chief Judge Bryan Newland Bay Mills Tribal Court
Chief Judge Michael Petoskey Match-E-Be-Nash-She-Wish Band of Potawatomi Indians (Gun Lake Tribe)
Chief Judge Melissa Pope Nottawaseppi Huron Band of Potawatomi
Chief Judge Patrick Shannon Saginaw Chippewa Indian Tribe
Judge Angela Sherigan Little River Band of Ottawa Indians
Chief Judge Tanya Wanageshik The Grand Traverse Bay Band of Ottawa and Chippewa Indians

Ret. Justice Michael F. Cavanagh Alane & Chartier, P.L.C.
Magistrate Judge Timothy P. Greeley U.S. District Court for the Western District of Michigan, Marquette
Magistrate Judge Ellen Carmody U.S. District Court for the Western District of Michigan, Grand Rapids
Assistant U.S. Attorney Jeff Davis U.S. Attorney's Office for the Western District of Michigan, Grand Rapids

Justice Bridget McCormack Michigan Supreme Court
Maribeth Preston Michigan Board of Law Examiners
J. Bruce Kilmer State Court Administrative Office, Region III
Judge Michael Gadola Michigan Court of Appeals
Judge Elizabeth Gleicher Michigan Court of Appeals

For more information about the Forum, contact Maribeth Preston at **517-373-4452** or **prestonm@courts.mi.gov**. For more information about Michigan tribal courts, contact Bruce Kilmer at **989-772-5934** or **kilmerb@courts.mi.gov**. Also, visit **www.courts.mi.gov/tribalcourts**.

Michigan Tribal State Federal Judicial Forum Naakonigewin (Charter)

History: Under the guidance of Michigan Supreme Court Justice Michael F. Cavanagh and Pokagon Band of Potawatomi Indians Chief Judge Michael D. Petoskey, Michigan enjoys a history of collaboration between state and tribal courts dating back prior to the first Tribal State Court Forum in 1992. Significantly, most of the recommendations from the 1992 forum were implemented. They included the creation of the “Enforcement of Tribal Judgments” court rule, MCR 2.615, and, most recently, the passage of the Michigan Indian Family Preservation Act of 2012 (MIFPA). The idea of re-convening an ongoing Michigan Tribal State Federal Judicial Forum has grown out of the MIFPA and the desire to create a venue for improving working relations and communication among the jurisdictions and to continue to produce better outcomes for Indian children and families.

Initially seats for all of the 12 currently federally recognized tribes in Michigan will be designated for the chief tribal judge or the designee. An equal number of seats for state court judges are designated. The Forum will strive to embody the Seven Grandfathers Teachings: Truth, Honesty, Humility, Wisdom, Love, Respect, and Bravery. To reflect this focus, the Little Traverse Bay Bands of Odawa Indians language specialist assisted the planning group with identifying an Odawa word to reflect the meaning of “charter.”

Purpose: The purpose of the Michigan Tribal State Federal Judicial Forum is to create an ongoing dialogue and respond to joint and cross jurisdictional issues among state, tribal, and federal judiciaries regarding working relationships and the interaction of state, tribal, and federal court jurisdiction in Michigan. The Forum shall make recommendations and implement philosophies, practices, and procedures to enhance our common responsibility to our children, our families and our communities of our sovereign nations.

Charge: The charge of the 2014 Michigan Tribal State Federal Judicial Forum is: (1) to foster mutual understanding, rapport, and acceptance by state, tribal and federal judges of the similarities and differences among each other’s courts and legal systems; (2) to generate dialogue, achieve consensus on, and implement approaches to improving consistency of judicial practice in Indian Child Welfare Act (ICWA) and MIFPA cases throughout the state; (3) to identify opportunities for judicial collaboration across various subject matter areas among the jurisdictions; (4) to identify and work to eliminate barriers to the exchange of court information, records, and other data; (5) to make recommendations for systems improvement, including proposals for changes to legislation, court rules, and standard forms; (6) to promote improvement in the quality of justice delivered through judicial, court staff, and attorney education, professional court administration, and the sharing of personnel, facilities, and programs, in addition to funding, as appropriate;





(7) to generate dialogue, achieve consensus on, and implement approaches to improving consistency of judicial practice in IV-D, child support cases; and (8) to perform any other duties deemed by a majority of Forum members to be in the best interests of state, tribal and federal courts and of the justice system serving the children and families, and communities of our sovereign nations.

Membership: 1) **Tribal:** The chief tribal judge of each of Michigan’s federally recognized tribes will be invited to participate or to send an alternate tribal judge to serve. Tribal membership will be expanded to accommodate newly federally recognized tribes when this occurs. 2) **State:** An equal number of state court judges will be appointed by the Michigan Supreme Court Tribal Liaison Justice from a pool of currently serving or retired Michigan Judges or Justices, with consideration of geographic proximity to the tribes, ICWA and MIF-PA case load dockets, and current involvement with tribal-court relations issues and projects. State court judicial membership will be expanded as tribal membership is expanded to accommodate any newly federally recognized tribes. 3) **Federal:** The Forum shall pursue participation and involvement from the federal bench and officials. 4) **Michigan Court of Appeals non-voting liaison(s).** The Forum shall pursue participation from the Michigan Court of Appeals bench to serve as non-voting liaisons to the Forum.

Term: Members will serve three year terms. Memberships are renewable at the discretion of the Chief Tribal Judges or Tribal Liaison Justice, dependent upon the member.

Organization: The Forum shall be led by Co-Chairs consisting of one tribal court judge and one state court representative. The Co-Chairs will be selected by the entire body of members and will serve for a three year term.

Work committees may be formed to carry out specific tasks as needs are identified by the members.

Decision Making: Decisions by the Forum will be made by consensus.

Meetings: Meetings will be held at least three times per year. At least two of the meetings will be in-person meetings. The meeting location will be determined by the group, with the goal of rotating to different tribal and state court locations.

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MICHIGAN'S JUDICIARY

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