

Synthesis of Tribal Court Assessment Strategies

Tribal Court Improvement Program 2018 Grantees

Introduction

In October 2018 as part of the Tribal Court Improvement Program (TCIP), the Children's Bureau within the Administration for Children and Families, U.S. Department of Health and Human Services, awarded grants to seven tribes (see exhibit 1). The purpose of these grants is to improve practice in child welfare cases in tribal courts. During a 5-year grant period, the tribal grantees are expected to—

- Conduct assessments of how tribal courts handle child welfare proceedings
- Implement changes to address the results of child welfare court assessments
- Ensure the safety, permanency, and well-being needs of children are met in a timely and complete manner
- Continuously improve the quality of court hearings and legal representation, including engagement of parties, through training and increasing efforts to expand substantive and procedural justice

The purpose of this brief is to provide an overview of the strategies used by TCIP grantees to assess their tribal court systems. Common approaches, assessment questions, and methods are highlighted; lessons learned are described. Data were informed by grantee interviews, semiannual

Acknowledgments

We are grateful to the TCIP program and evaluation teams for their willingness to share their methods, experiences, and recommendations in conducting tribal court assessments. The generosity of their time and feedback made this brief possible.

grantee progress reports, and tribal court assessment reports. This brief may inform other tribes interested in assessing their own tribal child welfare court systems with the goal of improving processes and outcomes for children and families.

Exhibit 1. Tribal Court Improvement Program Grantees, 2018

Tribe	Project name	Contact
Confederated Salish & Kootenai Tribes (CSKT)	CSKT Tribal Court Improvement Program (CSKT-TCIP)	Patricia Kinley Project Manager Patricia.Kinley@cskt.org
Lac Courte Oreilles Band of Lake Superior Chippewa Indians (LCO)	LCO Tribal Court Improvement Program (LCO-TCIP)	Kay Lynn Jensen Project Manager Kaylynn.Jensen2@lco-nsn.gov
Little Traverse Bay Bands of Odawa Indians (LTBB)	LTBB Child Welfare Court Improvement Project (LTBB-TCIP)	Alyssa Harrold Project Manager aharrold@ltbbodawa-nsn.gov
Muckleshoot Indian Tribe (MIT)	Muckleshoot Indian Tribe Tribal Court Improvement Program (MIT-TCIP)	Bobbie Jo Norton Project Manager bobbiejo.norton@muckleshoot.nsn.us
Ponca Tribe of Nebraska (PTN)	Ponca Tribe of Nebraska, Tribal Court Improvement Program (PTN-TCIP)	Ramona Schultz, Stephanie Pospisil, Ruthanne Gallup rschultz@poncatrbe-ne.org spospisil@poncatrbe-ne.org ruthanneg@poncatrbe-ne.org
Saint Regis Mohawk Tribe	Building and Strengthening the Saint Regis Mohawk Family Court (SRMT-TCIP)	Hon. Carrie Garrow Chief Judge, Saint Regis Mohawk Tribe carrie.garrow@srmt-nsn.gov
Standing Rock Sioux Tribe	Standing Rock Sioux Tribe Tribal Court Improvement Project (SRS-TCIP)	Carol Nichols Project Director cnichols@standingrock.org

Conducting a Tribal Court Assessment

Assessment activities common to grantees can be grouped into five phases.



The following sections summarize the strategies TCIP grantees used in each phase. Lessons learned are provided throughout to highlight innovative and recommended practices. The full assessment process took 9–12 months for most TCIP grantees.

Identify an Assessment Team

Trust, reputation, and experience working with tribes and tribal law are important factors for tribes to consider when contracting with an organization to complete their tribal court assessments. When searching for potential assessment organizations, grantees relied on established relationships, recommendations from other tribes and technical assistance providers, and online recommendations. They found recommendations from other tribes who had completed an assessment especially helpful. Their perspectives about how the organizations worked within tribal communities and whether they were trustworthy and respectful of tribal culture was important.

Most of the TCIP grantees ($n = 5$) contracted with external organizations to complete their tribal court assessments. Using an outside organization was not a grant requirement but an approach taken by project teams to offer a relatively neutral party to pose recommendations. One grantee chose to conduct its own assessment by assigning data collection tasks to a project coordinator who was specifically hired to complete an assessment and compute the data findings. Another recently

Lessons Learned

- Ask other tribes for recommendations and referrals.
- Build in time for tribal council review and approval of RFPs and applicants.
- Rely on recently conducted court assessments if possible.

completed an assessment of its entire court system by the Bureau of Indian Affairs (BIA). This information was used to inform the project rather than repeating assessment activities.

The grantees contracting with external organizations developed requests for proposals (RFPs) outlining the goals and tasks. Then these RFPs were reviewed for approval by tribal councils before being posted publicly and sent to potential applicants. Once applications were received, court staff reviewed them and made recommendations to tribal councils for final selection.

Prioritize Tribal Needs and Set Expectations

Tribal communities experienced trauma and harm from research and data collection conducted by non-native researchers (Foulks, 1989; Sahota, 2004). Research in Indian Country has been conducted without tribal members' consent, tribes have been denied access to their own data, and inappropriate and inaccurate conclusions have been made about tribal communities. These practices contributed to widespread distrust of research and the historical trauma experienced by tribal communities (LaFrance & Nichols, 2010). Therefore, tribal court assessments must be driven by tribal needs, goals, and desires, rather than the agenda of any outside entity.

The TCIP grantees found setting clear expectations about how data were collected, analyzed, and communicated was critical. Early and honest conversations with potential assessment partners were needed to ensure the assessment would be conducted in service of the tribe, prioritizing its needs and cultural traditions. Building trust among the tribal court and tribal social services staffs and assessors at the beginning of the process was important to the success of the assessment.¹

Lessons Learned

- Take the time needed to set boundaries, build trust, and clearly articulate the tribe's expectations.
- Make sure assessors understand and honor tribal history, values, family norms, and traditions.
- This is also an opportunity to build trust between tribal court and tribal social services staffs.
- Do not assume that all parties feel comfortable with the assessment.

¹ Tribes may find a resource called [A Roadmap for Collaborative and Effective Evaluation in Tribal Communities](#) (Tribal Evaluation Workgroup, 2013) helpful when working with non-native assessors to empower themselves to direct the process in a culturally appropriate way.

While the funding announcement for this cluster of grantees described a linear assessment process in the first year of the project and then followed by project implementation, some TCIP grantees found an approach incorporating assessment activities throughout the grant period aligned better with their needs. For some grantees, reviewing assessment data with tribal court stakeholders and community members sparked additional questions that they asked assessors to explore. This supported ongoing data collection and learning rather than viewing the assessment as a one-time event.

Identify Assessment Questions

The TCIP grantees asked assessment questions covering a wide range of topics. Most questions were open-ended and qualitative. Grantees noted that while it was helpful to see examples from other tribal assessments, the questions had to be tailored to fit their community. They sought the perspectives of tribal court and tribal social services staffs and their communities regarding tribal court and social services functioning. Common domains and example questions are described in exhibit 2.

Lessons Learned

- What is important to understand about the court process for one tribe may not be important to another. Carefully consider what your tribe wants to understand, then draft questions to help find the answers.

Exhibit 2. Common Assessment Question Domains and Example Questions

Domain	Description	Example question(s)
Tribal Values	<ul style="list-style-type: none"> • How tribal values are embodied by the tribal court (e.g., definition and role of family, perceptions of respect and fairness) 	How are the culture and values of the tribe reflected in your work?
Strengths and Needs	<ul style="list-style-type: none"> • Strengths and needs of the tribal court (e.g., use of court appointed special advocates [CASAs], interest in specialty courts) • Strengths and needs of the community (e.g., shared vision of outcomes for children and families), including ideas about how to meet community needs 	<p>What are the greatest strengths of your tribal court?</p> <p>What are the greatest needs for families in your community?</p>

Domain	Description	Example question(s)
Capacity	<ul style="list-style-type: none"> • Caseloads, including number and types of cases • Ability of the tribal court to handle child welfare cases (e.g., staff preparedness and availability, knowledge of staff and caseworkers) 	<p>What is the current child welfare caseload?</p> <p>What is the court process for identifying child welfare cases?</p>
Satisfaction	<ul style="list-style-type: none"> • Level of satisfaction with tribal court functioning • Level of satisfaction with tribal social services functioning 	Are you satisfied with how the tribal court is handling child welfare cases?
Communication	<ul style="list-style-type: none"> • Frequency and quality of communication between the tribal court and families (e.g., whether families receive and understand information about their cases) 	How frequently does the court communicate with families?
Collaboration	<ul style="list-style-type: none"> • How tribal court staff and tribal social services staff work together • Whether tribal court staff and tribal social services staff understand each other's roles, responsibilities, and expertise 	How well does the tribal court and tribal social services staff work together to resolve problems and conflicts?

Collect Data

Most TCIP grantees used a mix of qualitative and quantitative data collection methods to answer their assessment questions. This approach helped to ensure that a diversity of data and perspectives informed the assessment. Grantees did encounter some participation challenges, including incomplete surveys or interviews. These were addressed by highlighting the tribal council and court support for the assessment process and providing multiple opportunities for participants to complete the surveys or interviews. Data collection methods used by the grantees are listed below.

- **Document review.** Most TCIP grantee assessments included a review of policies, procedures, and tribal court codes to ensure understanding of the functioning of the court.
- **Surveys.** Online and paper surveys were administered to both tribal court stakeholders and community members. Anonymity was emphasized to encourage participation and openness in responses. Paper surveys were completed and dropped in sealed boxes. Multiple ways were provided to complete surveys including reserving time at the end of meetings, leaving sealed drop boxes at tribal health offices and community centers, and setting up tables at community events. Most surveys included a mix of scaled items (e.g., strongly agree to strongly disagree) and open-ended items that allowed for a deeper understanding of scaled responses.

- **Interviews.** All TCIP grantee assessments used interviews as a data collection method. Most assessors interviewed a wide range of tribal stakeholders including judges, attorneys and court staff, social services' staff, community leaders/tribal government, and community partners and service providers. Interviews served as an important way to understand respondents' perspectives about how their court functions, their role in the court, and context for their ideas and opinions.
- **Focus groups.** Focus groups (or group interviews) were used less often than individual interviews. They can be used effectively with participants from the same role (e.g., tribal social services caseworkers). Care was taken not to combine supervisors or management with other staff. This can create an imbalance of power and a "cooling" effect on participants' willingness to speak openly.
- **Talking circles.** Traditional talking circles are safe, nonjudgmental spaces where all participants have an opportunity to contribute to the discussion and listen to others. Talking circles were described as a way at least one grantee used to answer assessment questions.
- **Court observation.** Some of the TCIP grantees observed tribal court hearings to inform their assessments. These were typically completed with semi-structured observation guides and open notetaking. Court observation can be an effective way to understand case flow, court culture, and parent engagement.
- **Court case file reviews.** Similarly, some TCIP grantees also sampled and reviewed court case files to understand case types and process timeliness. In one instance a review with a structured case file review form was conducted by coordinating with the state child welfare agency to access full case records.
- **Administrative court data.** Several of the TCIP grantees reviewed their own data systems to track case processing, including caseload numbers, types of cases, timeliness of case processing, and attorney appointment. Some grantees had electronic court data systems, while others reviewed paper records.

Lessons Learned

- Use a combination of qualitative (e.g., interviews) and quantitative (e.g., administrative court data) methods to answer your assessment questions.
- Use tribal council's support to promote data collection.
- Emphasize how respondents' privacy will be protected and how data will be stored and shared.
- Offer multiple ways to participate in data collection.

Use Results

Assessment results were typically shared as a final report and a presentation to court stakeholders and tribal councils. Common report elements included—

- Overview of the process to engage the assessor
- Overview of the assessment procedure
- Background about the tribal court (e.g., how and when it was established, relevant updates to tribal child welfare codes, description of location and physical setup)
- Discussion of relevant contextual factors affecting the tribe (e.g., opioid crisis)
- Assessment findings
- Recommendations for improvement.

By offering a presentation to accompany the report, TCIP grantees were able to highlight key strengths and takeaways from the assessment.

Once final assessment reports and presentations were received, grantees convened tribal court stakeholders to discuss prioritizing needs and recommended changes. Some grantees created spreadsheets to track recommendations made, planned changes, staff responsible for implementing changes, and progress toward goals. Others incorporated findings from the assessment into larger strategic plans. All are using their assessment findings to inform the projects being implemented as part of the TCIP grant funding.

Lessons Learned

- Highlight strengths of the court, followed by needs and recommendations for improvement.
- Present results using both a final report and a presentation. Different versions of the presentation may be created for different audiences (e.g., tribal councilmembers versus tribal social services staff).

Conclusion

TCIP grantees used multiple strategies to identify an assessment partner, set expectations for the assessment, select questions of interest and data collection methods, and present and use assessment findings. Tribal needs, preferences, and cultural traditions must guide the assessment process from the beginning to the end, especially when working with non-native assessors. While the strategies described in this brief may be helpful for other tribes to consider when planning a court assessment, the details of the assessment process should be tailored to each community.

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