

COMMUNITY DIALOGUE

TENTH DISTRICT REPORT

May 21, 2011

Meeting of Members of the Mille Lacs Band of Ojibwe with the Tenth Judicial District Equal Justice Committee

On a rainy Saturday afternoon in mid-May about 40 members and staff of the Mille Lacs Band of Ojibwe met with nine Pine County officials and ten members of the Tenth Judicial District's Equal Justice Committee at the Grand Casino Hinckley in East Central Minnesota.

Community Dialogue

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INTRODUCTION

Native Americans comprise the most sizable racial minority group in the northern areas of the Tenth Judicial District. The Mille Lacs Band of Ojibwe (the Band) has approximately 550 members residing in Pine County, one of the district's eight counties. With shared goals of improving communications, breaking down barriers and addressing issues of mutual concern, a meeting of Band members and officials, Pine County officials and staff, and members of the Tenth Judicial District's Equal Justice Committee was held on Saturday, May 21, 2011.

The ancestors of the present members of the Band lived and raised their families in the area now known as Pine County for centuries before Minnesota's statehood in 1858, or the establishment of Pine County in 1856. The Band has a sovereign tribal government with executive, legislative and judicial branches separate from the governments of the State of Minnesota and United States. The Band is divided into three districts areas; District III is based at the Lake Lena reservation in east central Pine County.

Minnesota's judicial system extends far beyond the courtroom and judicial branch. The judicial system includes law enforcement, prosecutors, public defenders and other attorneys, and agencies such as human services, corrections and probation. Each group is represented on the Equal Justice Committee. The members of the Equal Justice Committee, the Band's members and Pine County officials share concerns about issues within the judicial system such as the disproportionate number of Native American children in out-of-home placements, reports of disparate treatment of Native Americans by law enforcement, the need to be aware of, and to respect, cultural differences, and other matters affecting Band members when they are involved in Minnesota's judicial system.

Community Dialogue Plan

The Community Dialogue Plan was developed by a planning subcommittee of the Racial Fairness Committee. The work of this committee is carried forward by the Minnesota Judicial Branch's Advisory Committee for Equality and Justice. The Plan provides a template for each Judicial District's Equal Justice Committee to work to achieve equitable treatment for all individuals in the court system. The Community Dialogue Plan's stated purpose is to:

Create a public forum for community members to describe their experiences and discuss ideas for advancing racial equality and fairness in the courts.

Tenth District Session Details

In March 2011 Diane Gibbs, the Band's District III legislative representative, accepted Judge Reuter's request to jointly plan and provide a Community Dialogue Session. Judge James T. Reuter is the chairperson of the Tenth Judicial District's Equal Justice Committee. Representative Gibbs selected Grand Casino Hinckley for the meeting. This entertainment and gaming complex is the site of the Band's economic base in Pine County. It is located about 25 miles west of the Lake Lena reservation.

The forum was scheduled for 1 – 3 p.m. on Saturday, May 21, 2011. Judge Reuter sent invitation letters and emails to Band and Pine County officials and others. The meeting room and refreshments arrangements were made by Ms. Gibbs' staff. All Equal Justice Committee members were invited to attend. Those present were asked to assist as record keepers for the discussion groups. A flyer was prepared and distributed by Ms. Gibbs to Band members by email and in their community newspaper. This invitational flyer and a handout which was provided to attendees are attached to this report. Attendees were also given the Equal Justice Committee's outreach brochure which provides information on how a person affected by bias or discrimination in the court system can file a complaint. Sign-up sheets and name badges were provided; however, no registration was required. Those who provided an email or postal address were assured that a copy of this report would be provided to them within a few weeks of the forum date.

Judge Reuter and Ms. Gibbs provided opening remarks followed by tribal elder Herb Sam providing an invocation (in the Ojibwe language) asking that the Great Spirit provide assistance to those present at the forum. The attendees then broke out into five smaller groups. Each small group discussed issues of concern generally following the three questions stated on the invitational flyer:

- 1. If there was one thing that you could change that would make the court system better for native people, what would it be?*
- 2. A public opinion survey reports that approximately 35% of the public believes that the courts are unfair to persons of color. What is your perception? How or why did you develop that perception?*
- 3. The majority of court system staff are Caucasian; do you feel that you will be treated fairly if you are involved in a court related matter?*

The small groups met for about 45 minutes. The attendees then gathered as a large group. An Equal Justice Committee member reported on the topics discussed in the five small groups. Band members and others offered additional comments. The meeting lasted about an hour longer than anticipated. Judge Reuter and Mille Lacs Band Tribal Court Chief Justice Rayna Churchill-Mattinas made closing remarks. The formal portion of the forum ended with tribal elder Herb Sam offering a prayer in the Ojibwe language. Many of the attendees lingered in the hallway for as long as a half-hour following the session as they continued discussions which had been started during the forum.

SUMMARY OF THE TENTH DISTRICT SESSION

Major Themes of the Session

Many Band persons brought attention to personal matters that affected members of their families. Others addressed differences between Native American traditions and values and those of the larger American society. Several small group leaders indicated that they never moved beyond discussing the first question. The following, in no particular order, is a listing of issues presented to the group. Forum attendees discussed possible means of addressing the concerns for some matters – in these cases suggested resolutions are also presented.

A. LACK OF AWARENESS OF CULTURAL VALUES

One Band member, now 59 years of age, provided a written statement in which he indicated that he has been challenged by recurring incidents of stereotyping, discrimination and racist attacks since childhood. He reports that he's found no compassion or understanding when at government offices in Pine City. He asks that more efforts be made by the State government to protect Band members from racism and violence, that all students be taught true Native American and U.S. history and be given materials about state and tribal government treaties and relations. In turn, he noted that the tribes need to protect their members, teach true Native American history and teach principles and values of being honorable and civil.

Tribal elder Herb Sam spoke in his introductory remarks of problems that the county law enforcement had in their frequent encounters with a certain Band member. Mr. Sam said that he suggested to the deputies that they change their approach to this man; he taught them how to greet the man in the Ojibwe language, saying "Aaniin Boozhoo." Later, Mr. Sam again met the deputies. They reported that they'd again encountered the individual, and offered the Ojibwe greeting. The deputies indicated that the change in approach totally defused the situation. What had previously been tense and hostile became friendly and productive.

One group reported a discussion of how the Band members use a different and more expansive definition of family. They asked if it was possible to think of all of the persons considered by the Band member to be family when making sentencing and bail determinations thereby showing an appreciation of the larger cultural definition. They reported that it is likely that the Band member's flight risk would be diminished when the court is more aware of the actual family support given to a defendant.

It was also noted that although a Band member may be receiving a per capita payment from the Band, who he or she provides financial support to with these funds and other income cannot be assumed. Having a more expansive definition of family means that many individuals may be relying, at least partially, on that person to make ends meet.

Band members reported that they, their family and others such as community members are more likely to be permitted to speak in tribal court proceedings than when involved in state court matters where generally only attorneys speak to the judge.

B. INADEQUATE UNDERSTANDING OF JUDICIAL PROCESS

A Band member noted that many defendants in criminal court matters (or juveniles in delinquency matters) don't really understand the terms set forth on the conditions for pre-trial release or sentencing/juvenile disposition forms. These matters are not clearly explained prior to the hearing, and not covered in detail during the hearing. As a result, Band members are arrested for probation violations for such things as failing to report to the probation office prior to leaving the courthouse following sentencing.

One small group reported that they believed that there would be better understanding of the terms of probation if the defendant and the judge were looking eye-to-eye when these terms were placed on the record; often they are covered too quickly.

It was noted that there is a lack of understanding about how the court system works. For example, two defendants can be charged with identical crimes and receive greatly differing sentences. There is a lack of knowledge about what factors are considered in such matters as bail determinations and sentencing. The judges from the Pine County area indicated that they follow a bail evaluation prepared by court services staff when making determinations about the pretrial release of a defendant in criminal matters. It was suggested that perhaps a pamphlet could be prepared that gave an overview of these matters.

Band members indicated that they felt persons in the state court system weren't fully aware of the collateral consequences they incurred because of court proceedings including the loss of housing, jobs, family break ups, loss of eligibility to vote and the loss of licensed driving privileges. It was requested that diversion programs be more readily available in order to permit the opportunity to avoid such consequences, which have a greater impact in an economically challenged community.

C. PERCEIVED DISPARATE TREATMENT

Several Band members indicated that they feel that law enforcement initiate traffic stops of vehicles driven by Band members without justifiable driving conduct. They indicated that they felt that law enforcement routinely stopped known vehicles or drivers without good cause.

Band members stated that they chose to not get license plates for their vehicles issued by the tribal government as having these would target them for traffic stops by law enforcement.

A Band member reported that another member is stopped repeatedly and questioned about his sobriety – apparently because this man has a staggering walk due to a physical limitation. This is disrespectful.

One woman provided the details of an incident involving her adult son that occurred about a week before the Community Dialogue Session. She said her son was in a family owned business, working on refinishing the floors, when he was tapped on his shoulder, turned around and faced a Pine County deputy. The deputy indicated he'd received a call that someone was smoking marijuana on the premises. Her son reported that he was smoking a cigar because of the odors caused by the products or work he was doing. He said that he was then asked if he was a member of the Native American gangs – he believed the only possible reason was because he was wearing a headscarf because of the flooring work. Her son felt insulted and targeted, but tried to not demonstrate any such emotion. A call made to the County's dispatch office revealed that there had not been any call made to them reporting any person smoking marijuana at that address. She indicated that this occurrence was an example of the nature of law enforcement activity faced by Band members every single day. The present Pine County sheriff was present at the forum. He stated that this band member should be proud of how her son reacted to law enforcement, and that he hoped people would be comfortable reporting such inappropriate actions by members of his department to him. A Band member indicated there is reluctance to report such matters to the County's law enforcement because of concerns of retaliation.

One of the Equal Justice Committee members, reporting on the discussion in his small group, noted that the group indicated that the 35% figure in discussion question number 2 was actually much higher – that there is a higher percentage of people who believe that the court system treated members of racial minorities unfairly.

Persons in the court should be mindful of the order in which cases are called; many Band members have difficulties with transportation and the uncertainty of how long it will take for a hearing to be completed increases the difficulty. It was noted that Pine County is taking steps to establish a public transit system that would be available to county residents. The Band offers transportation, but the existing needs exceed the availability.

A Band member suggested that there should be more efforts to utilize community policing practices so that greater trust and rapport could develop between law enforcement officers and tribal community members.

One Band member said that sometimes it seems that law enforcement has a view of a situation at odds with that reported by others. He spoke of an incident in which a woman who was the victim of domestic violence was arrested and incarcerated as the perpetrator.

Band members indicated that there are occasions when they feel that often, when a member is in state district court on criminal matters, they indicate agreement when they really aren't clear on the terms of the agreement. The judge seems to be unaware of the differences between the verbal acceptance and the defendant's quizzical facial expression. Another person stated that people need to know what's up before they leave the courtroom.

Additionally, there are frequent instances when the Band member defendant would rather accept a plea requiring them to enter an admission of guilt to a criminal charge thereby obtaining a known result than to face the possibly more serious result that might occur following a jury trial.

Criminal matters have a cumulative impact on the defendants. One person asked if it were possible to exclude the guilty pleas that had been made because of a defendant's perception that there was no way they would receive fair treatment. She said that convictions resulting from pleas entered because of such a perception should be excluded in the event of a subsequent arrest. That defendant should not face the increased sanctions in bail and release determinations and in sentencing matters when the prior convictions were based on a sense that true justice was not available to him or her.

It was noted by one small group that if only adults registered to vote in Pine County elections and having Minnesota driver's licenses or state issued identification cards indicating a Pine County address were eligible to serve on Pine County juries, while any person with a felony history was eliminated from consideration for jury service, that it appears that many of the Band's adults will never be summoned for jury duty. They said that it is difficult to believe that you will be treated fairly when there is no one that looks like you is on the jury.

D. DESIRE TO HAVE GREATER USE OF BAND'S RESOURCES

Band members requested that court services probation officers and corrections officials consider tribal community service options rather than standard sanctions when conducting pre-sentencing investigations – perhaps a dispositional advisor from within the Band could be utilized.

One Band member reported that there is no effort to provide mediation in situations of alleged domestic violence; indicating that the mediation could occur either at the scene or later at the courthouse. She indicated that it appears that there is no attempt made to listen to members of the family; or of the impact such situations have upon the family such as breaking families apart and causing people to lose their employment. She noted that the services of others are available to assist and provide advocacy.

One small group reported that there is a need for greater use of restorative justice efforts and rehabilitation activities involving the Band's resources. The present system is too punitive.

The juvenile code should be reviewed; juveniles should be released from probation sooner. This might have a positive effect of breaking the cycle. It was also noted that there is no structured activity available for juveniles when they are on probation.

E. MISPERCEPTIONS ABOUT USE OF THE BAND'S FINANCIAL RESOURCES

One man noted how personally painful it was for him, having been involved in the past as a financial officer for the Band, to overhear a conversation between non-native persons in a local restaurant in which it was stated that Band funds were being used to pay bail and allow Band member defendants to be released from jail. He noted that the Band provides members with per capita payments. These funds are the property of the recipients to use as they deem appropriate. The Band itself has never paid any member's bail in order to secure release.

F. PERCIEVED DISRESPECT AND FAILURE TO TREAT COURTEOUSLY

Band members in the small groups reported that they felt there was a lack of courtesy extended to them when interacting with court staff; a lack of respect and sensitivity to the needs of older people. There is a need to clarify the person's understanding, often Band members say they understand although they remain confused.

G. NEED TO ADDRESS PROBLEMS OF GANG VIOLENCE

Band members brought up issues of organized Native American gangs, headquartered in the metro area with affiliations in outstate tribal communities, which are involved in criminal matters including drug related activities. They indicated that the gangs are having a serious negative impact within their community and there is a need for collaborative efforts with law enforcement and prosecution to address these concerns.

H. POSITIVE EFFORTS NOTED BY BAND MEMBERS

Band members noted appreciation for the services provided to them by the attorneys at the Band's legal aid office. Two of these attorneys were present at the forum. The Band noted that the need for legal services exceeded the resources available to them.

One small group noted in their discussion that they were pleased with the services provided to Band members by Pine County Health and Human Services. However, the members of this group noted that the level of service provided by the court system was lagging behind that offered by social services.

It was noted that Talking Circles for Band members are permitted by the staff of the Pine County Detention Center. The Band has support groups, known as Talking Circles, bringing

together people with a common issue such as persons affected by diabetes, women in abusive relationships, or persons working to overcome drug addiction.

SUMMATION

Tribal elder Herb Sam, in his closing remarks, said that the native Ojibwe language has no word for the term “coincidence.” He said that the traditional belief is that “things happened because the Great Spirit wants them to happen.” Mr. Sam said that it was no coincidence that the necessary people from the State’s Judicial System, Pine County and the Mille Lacs Band of Ojibwe attending this Community Dialogue Session were present - they were all supposed to be in attendance. The wide range of serious issues presented indicates there are matters requiring the immediate attention and the collaborative efforts of Pine County officials and members of the Mille Lacs Band. The forum was an important first step, but these initial efforts need to be followed by committed actions to address mutual concerns.

Improving the Court System

The suggestions for improvement indicated within this report will be reviewed by the Minnesota Judicial Branch’s Advisory Committee for Equality and Justice and the Tenth District’s Equal Justice Committee and used to inform the priorities and actions of each group. It is also recognized that, as the matters in large part concern the relationship between the Band and Pine County, that they will work together independent of either the State or the District’s committees to address the concerns identified at the forum.

Acknowledgements

The Community Dialogue Session was a joint effort of the members of the Mille Lacs Band, Pine County and the Tenth Judicial District's Equal Justice Committee. Special appreciation is given to the following persons for their support:

MILLE LACS BAND OF OJIBWE

Andrea Braun, Mille Lacs Band Legal Aid Attorney
Ryan Champagne, Director Mille Lacs Band Family Services
Justin Churchill, Mille Lacs Band Tribal Police Department Deputy Chief
Rayna Churchill- Mattinas, Mille Lacs Band Tribal Court Chief Justice
Barbara Cole, Solicitor General, Mille Lacs Band Department of Justice
Katie Draper, Mille Lacs Band District III Legislative Assistant
Valerie Eli, Mille Lacs Band Family Services Foster Care Coordinator
June Evans, Mille Lacs Band Family Violence Prev. Program Community Advocate
Diane Gibbs, Mille Lacs Band District III Legislative Representative
Oliver Gibbs, Mille Lacs Band Court Liaison
Monica Haglund, Lake Lena Chemical Dependency Counselor
Mike Kettner, Mille Lacs Band Chemical Dependency Counselor
Richard Osburn, District Court Judge, Mille Lacs Band Tribal Court
Chris Sailors, Mille Lacs Band Legal Aid, Managing Attorney
Sharalane Staples, Mille Lacs Band District III Community Advocate
Kristie Vance, Mille Lacs Band Family Services Social Worker

PINE COUNTY

Terryl Arola, Director, Pine County Court Services
John Bowen, Assistant Pine County Attorney
Linda Cassman, Director, Pine County Health and Human Services
Steve Cundy, Chief Deputy Pine County Attorney
Robin Cole, Pine County Sheriff
George French, Adult Mental Health SW, Pine County Health and Human Services
Betty Gilbey, Deputy Pine County Court Administrator
Tessa Nelson, Pine County Court Services Probation Officer
James Reuter, District Court Judge
Sarah Wiekke, Pine County Court Services Probation Officer

TENTH JUDICIAL DISTRICT EQUAL JUSTICE COMMITTEE

Dawn Blanchard, MN Ombudsperson for American Indian Families
John Bowen, Assistant Pine County Attorney
James Dehn, District Court Judge (Isanti County)
Todd Eustice, Director, Kanabec County Services
John Hoffman, Assistant Chief District Court Judge (Washington County)
Michael Moriarity, Court Administrator, Tenth Judicial District
James Reuter, District Court Judge (Pine County)
Rita Steinhagen, Judicial Law Clerk (Pine County)
Randy Tenge, Supervisor, Minnesota Department of Corrections
Kevin Tierney, Managing Attorney, Wright County Public Defenders

- handout provided to all attending the 5/21/11 community dialogue

The Mille Lacs Band of Ojibwe has a tribal government with executive, legislative and judicial branches. The Band has offices in Pine, Mille Lacs, and Aitkin counties. The Mille Lacs Band has a significant Pine County presence; they are the largest minority racial group. Approximately 550 band members live in the Hinckley/Lake Lena area of central Pine County.

Pine County, located in East Central Minnesota, has an area of 1411 square miles and a population of approximately 28,400. 93% of the population is white; 3% of the population is American Indian. (2009 U.S. Census figures). Grand Casino Hinckley, an Indian operated gaming and entertainment complex, is the County's largest non-governmental business.

Pine City is the county seat of Pine County's state governmental system. Minnesota has 87 counties divided into ten judicial districts. There are 289 district court judges. 45 are in the Tenth Judicial District. Pine County, in the Tenth Judicial District, has two judges chambered at the Pine County Courthouse. District court judges have jurisdiction over civil actions, criminal cases, family, juvenile, probate, violations of city ordinances and conciliation court appeals. They also hear conciliation court matters which address civil claims for up to \$7500. Minnesota's judicial branch is comprised of judges and court staff. The judicial system has many more individuals and agencies including prosecutors, defenders, social workers, legal aid attorneys, guardians ad litem, probation officers, law enforcement and others.

2010 CASE FILING INFORMATION PINE COUNTY AND STATE OF MINNESOTA

	Pine County	State of Minnesota
Major criminal (serious and other felony, gross misdemeanor DWI, other gross misdemeanors)	432	55,979
Major civil (personal injury, contract, property damage, harassment, other)	256	42,135
Probate/Mental Health (trust, guardianship/conservator, commitment, estate/other probate)	82	14,620
Major Family (marriage dissolution, child support, domestic abuse, other family)	368	49,411
Juvenile (delinquency felony or gross misdemeanor, juvenile petty offender, dependency/neglect, truancy)	265	44,573
Major Case Total	1,403	206,718
Minor Civil (implied consent, unlawful detainer, conciliation)	862	149,100
Minor Criminal (5 th degree assault, parking, non-traffic misdemeanor, petty misdemeanor, misdemeanor DWI, other traffic)	2849	1,288,443
Grand Total	5,114	1,644,261

Sources for filings data: Minnesota Judicial Branch 2010 Annual Report, released April 29, 2011 and Pine County Court Administrator, taken from MNCIS records

- flyer distributed to advertise Community Dialogue Session

(reduced in size to meet formatting limitations)

MINNESOTA JUDICIAL BRANCH

**Community Dialogue
about Racial and Ethnic Fairness
in the Courts**

**Saturday, May 21, 2011, 1 p.m. – 3 p.m.
Grand Casino Hinckley**

777 Lady Luck Drive, Hinckley, MN – in one of the small ballrooms (notice of exact location posted at the entrances)

You are invited to a meeting of members of the Tenth Judicial District Equal Justice Committee and other stakeholders in the state judicial system and persons of Native American heritage in the Pine County area.

The Equal Justice Committee is interested in the community's responses to the following questions:

- 1. If there was one thing that you could change that would make the court system better for native people, what would it be?*
- 2. A public opinion survey reports that approximately 35% of the public believes that the courts are unfair to persons of color. What is your perception? How or why did you develop that perception?*
- 3. The majority of court system staff are Caucasian; do you feel that you will be treated fairly if you are involved in a court related matter?*

Please come and share your experience in Minnesota's state courts. You will have an opportunity to speak but time may be limited. Written comments will also be accepted.