



Restorative Justice:

Healing through Honoring Community Customs, Traditions, and Spirituality

AN INTERVIEW WITH JUDGE CLAUDETTE C. WHITE

Judge Claudette C. White was featured in *Tribal Justice*, a documentary spotlighting tribal courts that incorporate indigenous customs and beliefs into their justice system. Judge White's focus is on restoring her community rather than just punishing offenders. She does this through honoring the traditions and customs of the people she serves and by creating new pathways to justice for families dealing with historical trauma and intergenerational addiction.

Please tell us about yourself - your background and experiences.

I am from the Ibbotson Indian Tribe located in Winterhaven, California, and Yuma, Arizona – right up to the Port of Los Algodones in Mexico. So, the port of entry from the United States to Mexico is located on my reservation. That is the tribe I am enrolled with. The tribe I actually work for is the San Manuel Band of Mission Indians which is located in San Bernardino County - about three and a half hours from my actual reservation. Here at San Manuel, I am their chief judge and I have been for the last two and a half years. Prior to that, I served in a number of tribal communities – predominantly in Arizona. I worked for the Tonto Apache Tribe, the San Carlos Apache Tribe, the Salt River Pima Maricopa Indian Community, and the Ak-chin Indian Community. I was also on the bench with the Puchong as their chief judge for 12 years. Because tribal communities do not have a lot

of resources to employ people and provide staff, I have my hands in a lot of things. When we find there is a need and we have a lack of resources, then we work to either develop a program or try and figure out a way to enhance already existing programs. I have had the opportunity to learn a lot and do a lot.

Like many native peoples, I am not just from one community and I am not just affiliated with one tribe. Our formal enrollment, which is required by the federal government, follows our paternal ancestry. However, for tribal people, we acknowledge and honor both sides of our family heritage. I am Kw'atsan, which we write out, and pronounce our tribal name in English as Quechan. Kw'atsan means descending from water. I am part of the Xaanye clan, which is the frog clan. As part of our creation story, we learn that we were created from the great mountain called Avvii Kwa'amee, which is about three and a half hours away from our reservation. Because we were

created and lived in a very arid dry region, water is very important to us. It is part of our creation story and part of our daily life. For us, life is the Colorado River. I am not just Kw'atsan, I am also Cocopah and Kumeyaay.

How do you incorporate traditional tribal practices into your judicial response when working with families who come before you in domestic violence, child custody, and/or child protection cases?

I think it is important for judges to be creative in terms of honoring the community's heritage, beliefs, customs, and traditions. I also think it is important for the bench to understand the values of the tribal community they are serving.

From the bench, I try to be flexible. I am dealing with community members who have multi-generational trauma. I am very careful in terms of focusing on restorative justice because this is important to the community I serve. I work to stay present with each of the tribal members who appear before me. This often means that I am working with tribal community members who are lay people and not professionally licensed. When I have lawyers come into my court, I have to explain to them that this court does not look or feel like a regular state court.

What does this look like in practice in court?

For example, at Quechan, when I preside over cases there, I explain to people coming into the courts that our court looks and feels very different – not at all like a court in a

state jurisdiction. Tribal courts are often courts of equity. Also, depending on the issues in the cases, litigants will not get the same court process here in my court. For example, if the case requires that I take into consideration other factors or other parties, I will honor the requests of the participants. In a case that would not normally require or provide an opportunity for community members to speak, I will ask the parties to consent and suspend the rules under our tribal customs and traditions. This gives them the opportunity to speak and be heard. I have had cases where young people have shown up to court with their family and extended family. They are not there to

passively sit by and provide support, they are there to actively participate in the hearing process.

Appearing before the court can and does extend to include people who may be there as lay people and there to speak on behalf of one or both parties. I have to pay attention to the language and phrasing the lay person uses because often community members will not know the formal language to use to make a request

of the court. They do know what their people do and so when they make those kind of references, I have to understand that they are making a formal request under their tribal customs and traditions. When community members invoke tribal customs and traditions, I work with them to explain that normally representation requires professional licensing. However, because of tradition, the head of your family may speak on your behalf. I think tribal judges need to be very adaptable. They must recognize that important information is not always going to come in a formal argument.

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Would you share some of the benefits of tribal court and the tribal justice system?

I think tribal courts give people a voice. Tribal courts recognize people and honor them and give them an opportunity to say what they need to say. In the American system, it is adversarial and very formal. The courts there are working under court rules that are extremely stringent. The process is more important than the person. With parties appearing under the American system, they are just a number and very often they do not feel heard or seen.

I have the luxury of taking my time and giving everyone the opportunity to engage with me. This is vital to our system because indigenous people's mode of communication does not adapt well to the hurried process of American jurisprudence. When you ask tribal people a question, they do not just give you an answer, they share their story with you. And that story is not necessarily told by the person you have asked the question of. We share information through community storytelling which requires flexibility and time and requires deep understanding and commitment to a relationship.

When I was in law school our Indian legal clinic professor, who was a tribal member as well, shared that when we are dealing with clients under the tribal system the normal rules of confidentiality were not as much of a consideration because often it takes the entire family to tell the story. In honoring our culture and traditions, we tell the story together and there are certain parts that are told by certain members. Everyone may know the entire story but in sharing the story independently we are not honoring everyone's role and everyone's place in the sharing. In tribal court, it is very often a collective effort.

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This allows us to both honor and listen to the individual and honor and listen to the community.

How does your work combine tribal justice with your community's spiritual values to provide families who are dealing with domestic violence, child custody, and child protection issues with a path toward resilience?

So, we generally try to be formal. We call the court to order and announce the parties and review the petitions filed and any responses. But we also allow people to bring their whole selves to the hearing. And so while we might

start off the docket formally, we may end up singing a song because it is important to the litigants. We are there not just to mete out justice but to also bring peace to individuals and families. I have had hearings with individuals even in criminal court that needed to make peace – even in their brokenness and guilt.

One young man, who was in custody and understood I was going to find him guilty, wanted to speak to me before I handed down his sentence.

I gave him the opportunity to speak. He explained that he had suffered many recent losses in his family and that while he tried hard to stay on track, the lack of support left him feeling scared, alone, and not sure that he wanted to be alive. Of course, we did all the normal protocols and had someone visit with him in jail. But while we were still in court together, I shared with him all the wonderful things I saw him doing in the community and I recognized the good in him. I am not just a judicial officer; I am a tribal member too. I asked him if it was alright if I brought someone in to sing a song for him and to pray with him

and to smudge him. He broke down into tears and said he would like that very much. I called my son and asked him to come to the courthouse to offer prayer and smudge this young man who was sitting in our holding cell. My son came and I could hear them from the courtroom singing together in that holding cell. Afterwards, the officer came to me and said, "The prisoner would like to talk to you." I went and the young man said, "You did something for me that helped me feel better inside."

This is important to our members as they find their way back after trauma, tragedy, or dealing with the consequences of their actions. These practices that have been passed down help us to cleanse or help us to find balance. It is critical that the courts meet the whole person in terms of acknowledging ceremony and honoring our beliefs.

What are some recommendations that you would have for advocates, attorneys, and judges in supporting families who are guided by their faith and spiritual values?

I think it is important to be fully present with the person in front of you and to first and foremost value them and see them. Judges often focus on talking with the lawyers or the professionals in the room and completely ignore the litigants. There is no time or space for the actual person whose life is being affected.

Also, I think it is important to use the community and not just formal avenues of resources but informal as well. For example, sometimes when I am dealing with a criminal

case and it is a domestic violence case, I order the male perpetrator to speak to a tribal elder who is a man, so that they can learn how to take their place in their home and in their tribal community. In issues related to child abuse, I will sometimes order the parents to speak to tribal elders – the woman speaks to an elder that is a woman to learn their responsibilities to their children and their family and their tribal community and the man speaks to an elder who is a man. When tribal members make mistakes, we want them to try again and keep trying.

I also think it is important for professionals in the justice system to be flexible. Ask the person in front of you what they need from you to be successful. For example, in an alcohol and drug treatment program that served our community, many of the participants wanted more of their traditional tribal practices incorporated into their recovery process. The program reached out to our tribe and worked with them to bring in elders to teach all the alcohol and drug counselors our creation story. This program made a commitment to serve and spent months learning and

being taught by our cultural leaders. The counselors did not just learn our creation story, they also learned our songs and stories. They needed to understand and be in relationship with our community to be able to support the tribal community.

I think it is also important to make the distinction between religion and customs and traditions of spiritual practice. When I was at the Indian Law Clinic, on our intake form we provided a space for religion – whether someone is Christian or Jewish – and we provided a space for cultural practice or customs and traditions. For tribal

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community members, there is a difference. We may be attending mass on Sunday and then preparing for a tribal ceremony the rest of the week.

Finally, with the tribal community especially, but with other historically oppressed communities, it is important to listen past the statements that the person in front of you is making and put their life and responses in context. For example, we have learned through the course of life and through the history of our people and our ancestors to pick and choose our battles. This means that we do not always stand up for ourselves. We may admit guilt to not fight. But then when those of us in the justice system dig a little deeper, we realize what we are hearing is not someone who should be pleading guilty. I stop the person and explain that they do have rights and an opportunity. I think this is a condition of our experiences. It is up to attorneys and advocates to listen and pay attention to their clients and aggressively advocate for them.



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The National Council of Juvenile and Family Court Judges houses The National Resource Center on Domestic Violence: Child Protection and Custody. The Resource Center is devoted to helping domestic violence survivors and professionals such as judges, attorneys, social workers, and domestic violence advocates who work with survivors in the child protection and custody systems. In addition to providing training and technical assistance, the Resource Center also conducts research and evaluation projects focused on the intersection of domestic violence and child protection or child custody. Contact us by telephone at (800) 527-3223 or by email at fvdinfo@ncjfcj.org.



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