

# 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.



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“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-





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." ✎

