

## **Family Conflicts and Domestic Violence in the Navajo Peacemakers Court.**

Nellie Benally, Class of 1997.

Each year in the United States, approximately 20,000 people suffer fatal injuries from interpersonal violence, and more than 2.2 million others suffer nonfatal injuries, from interpersonal violence.<sup>1</sup> This represents a mortality rate of 8.1/100,000 and morbidity rate of 885/100,000 (this morbidity rate includes injuries which were treated in the emergency room).

During 1996 and 1997 in the Gallup and Crownpoint Service Units, 15 people suffered fatal injuries from interpersonal violence and 109 people suffered nonfatal hospitalized injuries from interpersonal violence.<sup>2,3</sup> This equals a mortality rate of 12.2/100,000 and a morbidity rate of 88.96/100,000 (this morbidity rate includes only hospitalized injuries).

Interpersonal violence and family disputes are the second leading causes of injury hospitalizations and fatalities in the Gallup Service Unit (GSU)<sup>4</sup>, preceded only by motor vehicle related injuries. Reported incidents of interpersonal violence and family disputes have increased both in the US and on the Navajo Nation. Interpersonal violence appears to be higher in rural areas, such as the Navajo Nation. On Native American reservations, Native American women appear to be the most susceptible group of individuals.<sup>5</sup>

Most legal institutions are based on an adversarial adjudication system, where the wrongdoers are punished and taught a lesson. However, nothing is done to solve the underlying problems that caused the primary dispute. A literature search did not indicate any previous studies on court or legal related intervention strategies to address interpersonal violence and family disputes. Most studies have focused on epidemiology of interpersonal violence and assault related injuries in the Native American communities. This study is to describe the peacemaking process as an intervention to resolve interpersonal violence and family disputes on the Navajo Nation. The study sample includes disputes which were adjudicated in the Peacemaker Division, Eastern Navajo Agency, during a four-year period (1994-1997).

### **Background**

The Gallup and Crownpoint Service Units extends more than 31,000 square miles, topographically located within the four-corners region of the southwest United States. The Eastern Navajo Agency covers portions of McKinley, San Juan, and Sandoval Counties in New Mexico, and Apache County in Arizona. The Gallup and Crownpoint Service Units are located within the Eastern Agency. The population consists primarily of members of the Navajo Nation. Many of the Native people are bilingual, speaking both Navajo and English languages.<sup>6</sup>

The Navajo Peacemakers Court was established by the judges of the Navajo Nation in 1982. The court system is based on the traditional Navajo concept of restoring "true justice" among individuals, families and the community. Traditionally, a "naat'aanii" or peacemaker is used to mediate disputes by consensual problem-solving and talking with injured parties. It allows the people to solve their own problems without the "interference of judges or attorneys".<sup>7</sup> The traditional Navajo principal is to restore harmony and balance (Hozho Nahasdlii)<sup>8</sup> between the "peace way" and "war way". A "peacemaker works so that justice can be done for everyone involved in the dispute". The Navajo Peacemaker Court implements this method of dispute resolution. Peacemakers are officers of the Navajo Nation Court.<sup>9</sup> Currently, there are sixty-one peacemakers in the Crownpoint Judicial District Peacemakers Division.

Referrals to the Peacemaker Court Division are received from the Family Court, District Court, Small Claims Court, Direct Request and public referrals (i.e. family, friends, Chapter). People in the Crownpoint Judicial District may use the peacemaking court by contacting the Peacemaking Liaison. There are no legal fees for lawyers or legal procedures in the peacemaking process.

### **Methods**

Approval was obtained to conduct this study from the Navajo Nation Health Research Review Board, Crownpoint Judicial District Judges, Eastern Navajo Peacemakers Association, Churchrock Chapter and the Navajo Nation Judicial Branch Peacemaker Division.

This study is based on 331 court records reported to Eastern Navajo Peacemaking Division (ENPD) from 1994 to 1997. The target population included all of the subjects who had filed for peacemaking with Crownpoint ENPD within the jurisdiction of the Eastern Navajo Agency. The study subjects were defined as persons, living in one of the 31 communities in the Crownpoint Judicial District, who filed for peacemaking during this period.

Data was obtained solely from the court records of ENPD. All 331 court records were reviewed by the author at the Crownpoint Judicial and ENPD offices. There was no personal contact or interviews with the case participants or

peacemakers. The Peacemaker Court Division form, Agreement, criminal compliant record, peacemaker report, and judgment data sources were used to collect information on demographics, peacemaking process, nature, referral and resolution of disputes.

Disputes were divided into three categories--domestic violence, family, and property--which were defined as follows: a) "Domestic violence"- abuse between intimate partners in a current or former relationship,<sup>10</sup> including verbal, physical, emotional and sexual abuse; b) "Family disputes" - injury or harm to another relative and/or between families. The injury or harm could be intentional or unintentional, and included all forms of aggression; and c) "Property disputes"- possession disputes regarding land, grazing (permits), and probate.

The data were entered into the data base and analyzed using the United States Public Health Service's epidemiological analysis program, EPI Info, Version 6.0 statistical software.

"Petitioner" was defined as the party (plaintiff) who requested a formal judicial action concerning some matter. "Respondent" was defined as the party (defendant) who is called upon to answer an appeal.<sup>11</sup> District Court cases include general civil<sup>12</sup> and limited criminal cases. Family Court cases are domestic relations, children, divorce and probate. Small claims cases are civil action for monetary matters. The basic components of K'e are respect, responsibility and harmonious relationships.<sup>13,14</sup>

**Results:**

During the 4-years, 331 individuals filed for peacemaking in the ENPD. During 1994, there were 114 cases adjudicated by the peacemakers. By 1997, the number of cases dropped to 49 (Table 1). The nature of disputes varied over the time period. Most of the peacemaking cases were referred in the first year.

Year	Family	Domestic Violence	Property	Total
1994	70	30	14	114
1995	48	24	11	83
1996	51	24	10	85
1997	29	8	12	49
Total	198	86	47	331

Of the 331 cases, 210 (63.4%) petitioners were females and 119 (36.0%) were males. Among respondents, 175 (52.9%) were males and 140 (42.6%) were females. Ninety-nine percent were Navajo.

People referred by direct request were the most common type of referral (75%), followed by District Court (13%), Family Court (8%), Criminal Compliant (1%) and Small claims (1%). Mothers were more likely than husbands to file for peacemaking in concern for their children's marital problems (n=29, 15.3%, Table 2). Husbands as the respondent of Peacemaking accounted for 56 (17%) of the overall cases, Table 3.

<b>Table 2. Petitioner who filed for PM</b>			<b>Table 3. Respondent of Peacemaking</b>		
	N	%		N	%
Mother	75	22.7	Husband	56	17
Wife	57	17.3	Son	52	15.8
Son	42	12.7	Siblings	45	13.6
Husbands	37	11.2	Daughter	38	11.5

The primary reason to request peacemaking was to clarify a dispute (n=98, 29.6%). Many of these disputes involved presumed behavior or acts that may have resulted in non-severe injury. These disputes were often left unresolved for more than two years (n=168, 50.8%). A Peacemaking hearing was requested to "clarify a dispute" between the petitioner and respondent, which often was resolved in one session (n=156, 48.8%).

In the majority of cases (n=321, 97%) both petitioner and respondent requested family members to participate in the peacemaking session. Overall, a total of 306 (95.6%) participants had not previously used peacemaking; the other 14 (4.4%) participants had previously used peacemaking. The majority (93.5%) of the peacemaking cases were assigned to a Peacemaker, while a minority (6.5%) of the peacemaking cases were by choice of either the petitioner or the respondent. One Peacemaker was present for most peacemaking hearings (n=275, 85%). In 46 of the 331 cases more than one Peacemaker was present during the hearing.

**Table 4: Description of Nature of Disputes**

	Family		DV		Property	
	N	%	N	%	N	%
<b>People in PM</b>						
Mother	68	34	1	1.2	6	13
Wife			51	59.3		
Husband			33	38.4		
Son	49	24.7	1	1.2	2	4.3
Neighbors	0	0			11	23.9
<b>Reason for PM</b>						
Lecture/counseling	75	37.9	13	15.1	4	8.5
Clarify Dispute	34.3	15	15	17.4	15	31.9
Marital problem	4	2.0	33	38.4	13	27.7
<b>Agreement/contract</b>						
Respect one another	113	62.4	35	44.3	37	84.1
K'e	77	49.7	0	0	0	0
Counseling	37	20.4	38	48.1	0	0
<b>Case Status</b>						
Case resolved	119	60.1	46	53.5	28	59.6
Unresolved case	16.1	26	26	30.2	7	14.9
<b>Case Refer to Court</b>						
Family court	7	31.8	9	47.4	4	44.4
District court	4	18.2	6	31.6	2	22.2
Legal proceeding	9	40.9	4	21.1	3	33.3
<b>Other information</b>						
Dispute > 2 years	93	47.0	57	66.3	18	38.3
One session held	98	51	31	37.3	27	60

The parties involved, agreed on a “contract” or agreement to resolve a dispute (Table 4). The petitioner’s contract consisted of respect for one another 61% (n=185) and counseling 24% (n=75). The respondent (n=119, 46%) contract was K’e or kinship which arranges correct conduct of the individuals within a family unit. Counseling or lecturing to modify behavior was a factor for both petitioner and respondent (n=223, 74.8%) during the four year period. Traditional services accounted for 6.3% of petitioner and 8.5% of respondent.

A total of 193 cases (58.3%) were resolved through the peacemaking process. Most of these cases (156) were resolved in one session. The remainder took two or more sessions. Of the remaining 138 cases 65 (19.6%) were unresolved cases, 31 (9.4%) were unknown, 24 (7.3%) withdrew, 10 (3.0%) were resolved prior to peacemaking session and 8 (2.4%) cases were pending at the time the data collection was concluded.

Of the 331 cases, 269 (84.8%) were not referred to any type of court system. However, 50 (15.2%) of the cases were referred back to court, when it was determined by the Peacemaker that the case could not be resolved through peacemaking. The majority of these cases were referred to the family court (n=18, 35.3%), District Court (n=14, 28.5%) or to other legal proceedings (n=18, 33%). Overall, 6 criminal complaints were referred to Peacemaking Division. Of the 6 cases, 3 were resolved, 2 unknown and 1 was not resolved.

**Family Disputes:** As expected, disputes between families members accounted for 198 of the total 331 cases. They occurred as the result of conflicts or arguments among relatives or clan members. Almost half of the family disputes were filed for clarification of disputes (n=98, 29.6%) and lecture or counseling (n=92, 28%). In family dispute cases, 34% of the petitioners (n=68) were the mothers. Family disputes were resolved with family members present during the peacemaking mediation. This finding certainly supports the need for family or clan members to participate and assist in resolving family disputes. Approximately one-half of the accounted family dispute cases, 195 (58.9%) involved siblings disputes. These disputes included fighting, disagreement, alcohol abuse and custody of children. Within this category, most of the disputes were committed by the male sibling (brother).

**Domestic Violence:** Domestic violence disputes accounted for 86 of the total 331 cases. Fifty-nine percent (n=51) of petitioners for domestic violence were female and 58% of the respondent (n=50) were male. Of these, 37 (48%) of petitioner and 29 (37.7%) of respondent were recommended for marriage counseling following peacemaking hearing.

These females sought to resolve marital problems that involved domestic violence with intimate partners. 57% (49) of the partners were legally married. Most had been in a relationship for more than two years (n=57, 66.3%). 53% (46) of the domestic violence cases were successfully resolved through a combination of the peacemaking process and marriage counseling. Moreover, most domestic violence cases were resolved after a single peacemaker hearing in 31 (37.3%). Property disputes accounted for 47 of the total 331 cases. These disputes included neighbors (n=11, 24%) who were in conflict over land and grazing issues (n=13, 27.7%). Approximately half of the 47 cases were resolved through peacemaking and the remaining were either withdrawn, pending or unresolved. A total of 9 (19.6%) of the 47 cases were referred to Family Court. Property disputes were resolved in one session for 27 (60%) of the cases. As expected, more property disputes were filed to clarify a dispute (n=68, 38%) than for counseling or lecturing.

### **Discussion**

Domestic violence and family conflicts are the two leading causes of disputes dealt with by the Eastern Navajo Peacemakers Division. The number of peacemaking cases decline from 114 to 49 during the 4-year period. Counseling and lecturing system plays a major role in resolving disputes identified in this study. In many of the cases, the parties requested peacemaking to “receive traditional instruction and lectures in Navajo ways.” This system may be recommended for young people or teens who can “learn the correct way of doing things and what things must not be done.”<sup>15</sup> The Peacemaking process is a community process that utilizes basic principals of problem-solving and finding solutions to deal with disputes identified in this study.

One-half of disputes were resolved by the peacemaking process in a single session. Also, direct request accounted for one-half of each dispute identified in this study. The peacemaking records do not include background information such as age, employment, status, education level, or alcohol involvement. As a result, some detailed information critical to undertaking a comprehensive study is lacking. Hence, the scope of the study had to be limited to what was available in the court records. Further study is warranted to a) determine the long-term effectiveness of peacemaking process on conflict resolution; b) determine if peacemaking can be better adjudicated for criminal complaints cases; and c) conduct a comparison study of peacemaking process and the court system (i.e. District Court, Family Court, etc.).

### **Conclusion**

Family disputes, domestic violence and property disputes are complex and rooted in many social and economic factors. Various interpersonal disputes are often due to poor conflict resolution skills. The Navajo Peacemakers court seeks to identify the underlying cause of these problems, rather than just issuing fines or penalties. Peacemaking agreement involves face-to-face meetings between the petitioner and respondent in resolving their disputes, which may likely reduce interpersonal injuries. The Navajo Peacemakers court attempts to address interpersonal violence issues by “going back to the future” “by reviving traditional justice methods.”<sup>16,17</sup> The integration of the traditional value system and strength of relationships can be a powerful intervention for disputes resolution. Training on conflict resolution as implemented by the peacemakers should be provided for families and community leaders.

### **References:**

1. Friday, J.C. (1995). The psychological impact of violence in under served communities. *Journal of Health Care for the Poor and Underserved*, 6(4): 403- 409.
2. Gallup Service Unit User Population, 1995.
3. Crownpoint Service Unit User Population, 1995.
4. Gallup Service Unit Severe Injury Data Surveillance, 1993-1997.
- 5,10. Arbuckle, J. Olson, L. Howard, M. et al: Safe at home? Domestic violence and other homicides among women in New Mexico: Feb. *Annals of Emergency Medicine* 1996:212
6. Navajo Area IHS: General Information Area Profile. Window Rock, 1993; Gallup Service Unit: 1.
- 7,16. Yazzie, R. The Navajo Peacemaker Court, *Contrasts of Justice*. Nov. 1992. 3
- 8,13. Bluehouse, P. The Philosophy of Peacemaking Based in K'E: 1
- 9,15. Zion, J. Navajo Peacemaker's Court Manual. May 1982: 21
11. Standard College Dictionary, Harcourt, Brace & World. New York
12. Bluehouse, P. The Navajo Nation Judicial Branch, handouts.
- 14,17. Bluehouse, P. Zion J: Hozhooji Naat'aaii: The Navajo Justice and Harmony Ceremony: Summer 1993. *Mediation Quarterly*, Vol.10. No. 4: 327.