

## WORKSHOPS

# Native American Legal Issues Come to the Fore

The legal rights of Native Americans, which differ in form and substance from the rights of other Americans, have never been well understood by the general public. Even as voters are asked to make decisions on gaming initiatives, land-use measures, and other proposals that directly affect Native Americans, misinformation abounds regarding their unique rights. Among jurists, awareness of the role of tribal courts and their relationship with the state's judicial system can be vague.

Efforts to increase understanding and coordination between the two legal systems have in recent years resulted in two statewide sessions where representatives and advocates meet to discuss how Native Americans are being served or, in some cases, underserved by the courts. Sponsored by the Racial and Ethnic Fairness Subcommittee of the Judicial Council's Access and Fairness Advisory Committee, the first Native American legal issues roundtable was held in September 1996. Its primary purpose was to educate and inform the subcommittee members on legal issues facing Native Americans that prohibit fair access to the state's courts.

### GOALS EXPANDED

The goals of the second session, held in April 1998 in Sacramento, were expanded to include increased coordination between state courts, tribal courts, and tribal communities. Some 35 participants convened for this meeting. Among the agencies represented were the California Indian Lands Office, California Indian Legal Services, National Indian Justice Center, California Tribal Chairmen's Association, California Tribal Council of Governments, and California Rural Indian Health Board.

During the two-day conference, the participants reviewed the characteristics of tribal courts, discussed the state court system's mission to implement fairness, explored areas of

mutual concern, reviewed progress in developing additional tribal courts in California, and developed recommendations to improve the working relationship between state and tribal courts.

Among other issues raised were:

- ▶ Unfamiliarity among the state's judiciary with Native American culture and state and federal laws governing the Indian community (e.g., the Indian Child Welfare Act);
- ▶ Lack of communication between the state and tribal courts;
- ▶ Conflicting jurisdictions between state and tribal governments on issues of family law, sentencing alternatives, real estate and land leasing, and the environment; and
- ▶ Impact of tribal gaming enterprises on the state and federal justice systems.

Among the recommendations made at the conference:

- ▶ Inclusion of tribal court judges, officers, and other personnel who exercise judicial authority in state judicial training programs;
- ▶ Development of training curriculum to address California Indian legal affairs, including racial and political distinctions as well as conflicting jurisdiction among federal, state, and tribal courts;
- ▶ Compilation of a judicial benchbook or guide on Native American legal issues, such as tribal sovereignty, and on interaction among state courts, tribal courts, and tribal governments; and

▶ Survey of tribes on their level of satisfaction with state courts to assess their perceptions of access and fairness.

### 'A STEP FORWARD'

One conference participant, Dore Bietz, Executive Director of the Cali-

fornia Indian Lands Office, called the meetings "a step forward" in increasing understanding of Native American issues. "There is a tremendous amount of misinformation about tribal lands," noted Bietz, "and we've begun to address some of it."

Another participant, Superior Court of Sacramento County Judge Rudolph R. Loncke, agreed that there is "an appalling lack of understanding of Native American issues throughout the community," a gap he suggests will become more apparent as the issues become more prominent. He added: "It's important that we understand that tribal courts have their own jurisdiction and how that dovetails with the state's laws. We all need to be less isolated and more involved. For me, the meeting was the first step in a long education process.... It's a whole new world."

The subcommittee is planning a third conference, this one on a reservation, for 1999.

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The second Native American legal issues roundtable attracted about 35 participants, who discussed ways to increase coordination between state courts, tribal courts, and tribal communities. The April event was sponsored by the Racial and Ethnic Fairness Subcommittee of the Judicial Council's Access and Fairness Advisory Committee.