



JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

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TRIBAL COURT-STATE COURT FORUM MINUTES OF OPEN MEETING

February 15, 2018
9:30 a.m-4:30 p.m.

Advisory Body Members Present: *Hon. Abby Abinanti, Co-chair, Hon. Dennis M. Perluss, Co-chair, Hon. April Attebury, Hon. Richard Blake, Hon. Hilary A. Chittick, Hon. Gail Dekreon, Hon. Leonard Edwards(Ret.), Ms. Heather Hostler, Hon. Mark Juhas, Hon. Lawrence C. King, Hon. Patricia Lenzi, Hon. Devon Lomayesva, Hon. Lester Marston, Hon. Mark Radoff, Hon. David Riemenschneider, Hon. John Sugiyama, Hon. Sunshine Sykes, Hon. Juan Ulloa, Hon. Claudette White, Hon. Christine Williams, and Hon. Christopher Wilson*

Advisory Body Members Absent: *Hon. Kimberly Gaab, Hon. Susanne Kingsbury, Hon. William Kockenmeister, Hon. Anthony Lee, and Hon. Joseph Wiseman*

Others Present: *Ms. Carolynn Bernabe, Ms. Vida Castaneda, Ms. Charlene Depner, Ms. Audrey Fancy, Ms. Suzanne Garcia Ms. Ann Gilmour, Hon. Joyce Hinrichs, Ms. Frances Ho, Ms. Bonnie Hough, Mr. Seprieono Locario, Ms. Monica Lim, Ms. Catherine Ongiri, Mr. Rob Oyung, Ms. Delia Sharpe, Ms. Cristina Snider, Mr. Greg Tanaka, Hon. Trina Thompson, Ms. Jennifer Walter, and Mr. Don Will*

OPEN MEETING

Call to Order and Roll Call

The co-chairs called the meeting to order at 9:40 a.m.

Approval of Minutes

The forum approved the December 14, 2017 meeting minutes.

DISCUSSION AND ACTION ITEMS (ITEMS 1-6)

Item 1

WELCOME AND INTRODUCTIONS

FORUM MEMBER PROJECT UPDATES

Hon. Abby Abinanti, Co-Chair, Chief Judge of the Yurok Tribal Court

Hon. Dennis M. Perluss, Co-Chair, Justice of the Court of Appeal, Second Appellate District, Los Angeles

Ann Gilmour, Attorney/Forum Counsel, Judicial Council's Center for Families, Children & the Courts (CFCC)

Justice Perluss welcomed members, members made introductions and provided project updates, discussed how their work fits with the work of the Forum and what projects they are currently engaged in that may cross over with the work of the Forum or be of interest to other Forum members.

PUBLIC COMMENT

Public comments received from Mr. James Acres with respect to the presentation of Judge Marston in Session 2 on Law Enforcement Collaborations and Agreements, were entered into the record.

Item 2:

SESSION 1: HIGHLIGHTS OF FORUM PROJECTS

Continuing the Dialogue—Indian Civil Rights Act 1968

Presenters: Hon. Abby Abinanti

Hon. Trina Thompson, Judge, Superior Court of Alameda County

Hon. Claudette White, Chief Judge, Quechan Tribal Court

Hon. Christine Williams, Chief Judge, Shingle Springs Tribal Court

Presenters discussed the background and significance of the Indian Civil Rights Act of 1968, and the current project that is ongoing in collaboration with the Center for Judicial Education and Research concerning the Act. Presenters examined where the law has been and where it's going, and discussed the relationship and jurisdictional issues between tribal and state courts.

For decades, Native Americans constitute a political minority with a unique relationship to the federal government. President Lyndon B. Johnson supported Indian tribes and made investments to improve social programs and infrastructure on tribal reservations. President Johnson articulated a forceful vision in his Special Message to Congress on the Problems of the American Indian – “The Forgotten American” – March 6, 1968.

Continuing the Dialogue is a series of programs explores issues of California's diverse population that affect judicial branch employees. The series provides opportunities for judicial branch employees to learn about different perspectives as well as explore and discuss issues and topics that impact us and the people who use our courts.

There are currently, approximately 110 federally recognized tribes in California, with more than half as many more petitioning for recognition. According to the U.S. census, California is home to more people of Native American or Alaska Native heritage than any other state in the U.S. In the upcoming series, we'll be exploring tribal court issues in California and how they relate and are intertwined with the work of the state's judicial branch. Specifically, we'll hear an overview of California Native American history leading up to the passage of two federal laws: the Indian Civil Rights Act of 1968, and the Indian Child Welfare Act of 1978.

Partnerships—Report on Joint Jurisdiction Courts

Presenters: Hon. Abby Abinanti

Hon. Joyce Hinrichs, Presiding Judge, Superior Court of California, County of Humboldt

Jennifer Walter, Consultant/Facilitator; Hon. Christine Williams

Judge Christine Williams gave a brief overview of the joint jurisdiction court between the Shingle Springs Band of Miwok Indians and the Superior Court of California, County of El Dorado. The joint jurisdiction court was founded in 2014. Since then five families have successfully completed the program. Referrals had primarily come from the School Attendance Review Board (SARB). There have been no new SARB referrals since the end of last school year. The joint jurisdiction court process has increased collaboration with the county SARB and tribal probation to provide early intervention services to families allowing them to redirect resources to raise awareness and provide preventive services. The court has also had two early intervention voluntary family maintenance “dependency” cases. Both families completed the program within six months. The children did not need to be removed from parental care. The families have not had any further referrals. The plan is to expand to hear more case types. They are considering including post adjudication criminal supervision in limited cases and child support contempt cases.

Judge Abby Abinanti, Judge Joyce Hinrichs, and Ms. Jennifer Walter discussed the vision for the Joint Jurisdictional Court that is currently under development between the Superior Court of California, County of Humboldt and the Yurok Tribal Court. The court is focused on dependency cases involving substance abuse issues. Recognizes that the communities are facing a common problem in the opioid crisis, and share a goal of keeping families together and connected with their culture and communities. The project is supported by an innovation grant. The leaders of both courts are engaging in a mindful planning process including tribal and stakeholder engagement through several stakeholder meetings designed to build trust and shift the paradigm. The court will become operational in July of 2018. The project will begin with the Yurok Tribal Court, but allow other tribal courts to opt in if they choose. The court will respect different traditions and focus on healing individual and community trauma. It will provide access to culture and spirituality within the home communities. It will move away from punishment and focus on healing and a coordinated team approach to supporting families.

Item 3:

SESSION 2: JURISDICTION & SAFETY IN TRIBAL COMMUNITIES

Law Enforcement Collaborations and Agreements

Presenters: Thomas Allman, Sheriff, Mendocino County Sheriff's Office, Board of Director, California State Sheriff's Association

Hon. Les Marston, Chief Judge, Blue Lake Tribal Court

Presenters gave an overview of some of the jurisdictional challenges facing law enforcement in California as a result of Public Law 280. They then discussed the agreements and processes that have been adopted between tribes and law enforcement in Mendocino County to facilitate the cross-jurisdictional protection of victims of domestic violence.

Trafficking in Tribal Communities – Unique Problems and Proposed Solutions

*Presenters: Hon. Richard C. Blake, Chief Judge, Hoopa Valley, and Redding Rancheria Tribal Courts
Suzanne Garcia, Tribal Child Welfare Specialist, Capacity Building Center for Tribes, Tribal Law and Policy Institute*

Judge Richard Blake shared personal experiences with trafficking and trafficking victims to dispel the myth that trafficking only affects already troubled families and individuals. Social media plays a significant role in easily traffickers contacting any youth. Youth are easily being lured away from their communities with promises of jobs in acting and modeling. One bad decision can result in a young person falling prey to traffickers. It is then difficult or impossible for the youth to escape as they are often held against their will. Traffickers will tattoo the youth. If the youth breaks free, in retaliation, traffickers will send compromising material to the youth's family, friends and contacts on social media. Ms. Suzanne Garcia provided context to the nationwide scope of the problem surrounding trafficking of Native Americans. The issues surrounding social media and data continue to prevail in most communities, but especially for tribal communities. In addition, there are not procedures in place for alerting tribes when a Native American foster youth is missing from their foster care placement, which is concerning and needs proposed solutions in place to alleviate this problem. Ms. Garcia is currently working on toolkits that outline the issues and would like to, further collaborate with Forum members on proposed solutions. The Forum agreed that human trafficking is an important issue that needs to be addressed in future work.

VAWEP/VOCA

*Presenters: Greg Tanaka, Supervising Attorney, Judicial Council's CFCC
Frances Ho, Attorney, Judicial Council's CFCC*

Ms. Frances Ho and Mr. Greg Tanaka provided an overview of the STEPS program. The STEPS program provides funding to support education, equipment and technical assistance in the areas of domestic violence, human trafficking, sexual assault and stalking for tribal and state courts. The primary goal of the STEPS program is to strengthen tribal-state court relationships.

WORKING LUNCH: COLLABORATION WITH TRIBAL COMMUNITIES (Sequoia Room)

Workbook/Survey Format

Members brainstormed on issues relating to access to justice for tribal communities; recognition and enforcement of protective orders; priorities for tribal/state court collaboration and priorities for Forum work in 2019 and beyond.

Item 4

SESSION 3: ACCESSING SERVICES

Presenter: Suzanne Garcia

The Tribal Law and Policy Institute (TLPI) is a Native operated non-profit corporation dedicated to providing free publication resources, comprehensive training, and technical assistance for Native nations and tribal justice systems in pursuit of our vision to empower Native communities to create and control their own institutions for the benefit of all community members, now, and for future generations. TLPI's focus is on programs which promote the enhancement of justice in Indian country and the health, well-being, and culture of Native peoples.

To see everything that is available, please visit the webpage at <http://www.home.tlpi.org/> Below is a sample of what is there:

- *Work with the courts:*
 - Tribal Healing to Wellness Courts – provide T/TA to tribes that are developing and/or expanding healing to wellness courts. Please see WellnessCourts.org
 - Establishing tribal domestic violence court/dockets
 - Tribal court/state court collaboration
- *Work in the area of child and family protection:*
 - Guide for Drafting or Revising Tribal Civil Dependency and Related laws
 - Capacity Building Center for Tribes – capacity building assistance for tribal child welfare agencies that receive iv-b funding.
 - Capacity building: idea not to just train, but to build capacity of the tribal child welfare programs to develop and implement their own initiatives.
 - Numerous products & resources online at tribalinformationexchange.org – topics include trafficking, collecting and managing data, IV-E, research and evaluations, the actual practice of child welfare, and engaging leadership in issues such as ICWA.
 - Commercial Sexual Exploitation of Children (CSEC)- The Center for Tribes is working with its partners at the Center for Courts to develop a tool kit for tribal child welfare agencies to facilitate the creation of a comprehensive response to CSEC. The idea is to put sample tools, resources, and materials in one place so that Tribes can create a response that is tailored to work in their community.
- *Work in the area of domestic violence*
 - Expanded jurisdiction under VAWA and TLOA
 - Human Trafficking - from an advocates perspective

- *Blog, books, curriculum, and events*
 - Organize the Indian Nations Conference in Coachella Valley – which will be this year in December.
- *Collaboration*
 - Tribal–State Collaboration Project
 - Collaborations to address the issues faced by families with substance abuse disorders. We are part of a team on a newer project: the National Quality Improvement Center for Collaborative Community Court Teams –currently accepting applications at <https://www.cffutures.org/qic-ccct/>. This is a national initiative aimed at addressing the needs of infants and families affected by substance use disorders and prenatal substance exposure. The program will last 30 months, and the main goal is to improve collaboration. Collaborative partners would include the courts, child welfare, the legal community, treatment providers, healthcare providers—everyone. What they are hoping to do is to provide the field with lessons learned and information on effective practices.

Presenter: Seprieono Locario, Tribal Tech, Substance Abuse and Mental Health Services Administration (SAMHSA)

Mr. Seprieono Locario provided a brief overview of [Substance Abuse and Mental Health Services Administration \(SAMHSA\) Tribal Training and Technical Assistance \(TTA\)](#) efforts currently available to Tribal Nations and tribal prevention efforts. He discussed the [Tribal Law and Order ACT \(TLOA\)](#) and the opportunity a tribe has in developing a [Tribal Action Plan \(TAP\)](#) to coordinate substance abuse and prevention services. He also reviewed the TLOA Partners websites and identified federal collaboration and other TTA centers available to assist tribes with prevention, healing, and public safety under TLOA efforts. He reviewed the [Department of Justice \(DOJ\), Tribal Justice and Safety](#) website, [Bureau of Justice Administration \(BJA\)](#), and [Indian Health Services \(IHS\)](#). Provided time for Q&A and shared contact information as a future resource.

Presenter: April McGill, California Consortium for Urban Indian Health (CCUIH)

Ms. April McGill provided an overview of her agency, [California Consortium for Urban Indian Health \(CCUIH\)](#), along with a description of the collaborative work with tribal communities.

Item 5

SESSION 4: INDIAN CHILD WELFARE ACT (ICWA) AND CHILD WELFARE

Presenter: Heather Hostler, Director, California Department of Social Services, Office of Tribal Affairs

Ms. Heather Hostler introduced herself and the work of the California Department of Social Services, Office of Tribal Affairs. Ms. Hostler is a member of the Hoopa Valley Tribe. She has experience in tribal government and state government, most recently as Chief Deputy for the Governor’s Tribal Advisor, Cynthia Gomez. Ms. Hostler’s primary focus in that role, and in her current role at the California Department of Social Services is tribal engagement and working with tribal governments. As the first director of CDSS Office of Tribal Affairs, her focus is on implementing the CDSS tribal consultation policy and ensuring tribal engagement on the full range of issues that CDSS deals with. Right now, with respect to ICWA a priority area is the draft regulations on tribal customary adoption and Division 31 regulation updates to address the Indian Child Welfare Act.

Update on ICWA Task Force Report

Presenter: Delia Sharpe, Executive Director, California Tribal Families Coalition

Ms. Delia Sharpe gave an overview of the creation and work of the California ICWA Compliance Task Force, its report and recommendations to the Attorney General. Following completion of the report, the tribal leaders and advocates involved in that project have established the California Tribal Families Coalition as an entity to represent and pursue the interests of California's tribes related to ICWA compliance. The Coalition has a governing board of tribal leaders. They have also established a panel of attorney advisors and advocates to provide input on ICWA issues. The Coalition is working to have three separate bills introduced and advanced this legislative session. The first will conform California law to the requirements of the new federal BIA ICWA regulations. The second will exempt attorneys appearing pro hac vice for tribes in cases governed by the Indian Child Welfare Act from various fees associated with pro hac vice appearances and the third will provide funding for a pilot project to provide attorneys to represent tribes in Indian Child Welfare Act cases.

Item 6

SESSION 5: FORUM PRIORITIES 2018-2019 AND ANNUAL AGENDA/WORK PLAN

The proposed annual agenda for 2018 is attached and will be sent to the Executive and Planning Committee for approval. Forum members can send comments to Ann Gilmour. Discussion of two pending proposals:

- Legislative proposal for the recognition and enforcement of tribal court orders in domestic relations cases involving distribution of pension assets governed by the federal Employee Retirement Income Security Act of 1974 (ERISA). Members had concerns and questions about how the proposal would operate. Legislation will be circulated to specific stakeholders for input and comments prior to moving forward;
- Proposal to amend rule 9.40 to waive certain pro hac vice requirements for attorneys representing tribes in cases governed by the Indian Child Welfare Act. No comments. Approved to move forward.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 3:36 p.m.

Approved by the advisory body on April 12, 2018.