

TRIBAL COURT-STATE COURT FORUM MEETING



JUDICIAL COUNCIL
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

February 16, 2017
9:30 a.m. to 4:00 p.m.
455 Golden Gate Avenue, 3rd Floor Boardroom
San Francisco, California

Agenda

THURSDAY, FEBRUARY 16

9:30 – 9:35 a.m. **INVOCATION**

9:35 – 9:45 a.m. **WELCOME AND INTRODUCTIONS**

Approve Meeting Minutes for December 15, 2016

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

Jenny Walter, Judicial Council Center for Families, Children & the Courts

PUBLIC COMMENT

9:45 – 10:30 a.m. **SESSION 1: FORUM MEMBER PROJECT UPDATES**

Educational Projects—Report on California Civic Learning Summit

Hon. Abby Abinanti

Partnerships—Enforcement of Tribal Protection Orders - Making Full Faith and Credit a Reality

Olin Jones, Forum Member and Director of Native American Affairs,

Office of the Attorney General, California Department of Justice (DOJ)

Kathleen “Kate” Alice Kenealy, Chief Deputy Attorney General of the Civil Law Division, Office of the Attorney General, California DOJ

Policies

- Child Welfare: Protecting Children and Tribal Access to the Child Abuse Central Index
- Child Welfare: Tribal Access to Juvenile Court File - Rule 5.552
- Child Support: Transfer Between Tribal and State Courts - Rule 5.372
- Civil Money Judgments: Lifting the Sunset on SB 406

10:30 – 10:45 a.m. **SESSION 2: PARTNERSHIP WITH THE CALIFORNIA SOCIAL WORK EDUCATION CENTER (CaISWEC)**

Virginia Rondero Hernandez, PhD, LCSW, Executive Director CalSWEC
Michelle Rainer, Coordinator, SERVE and Pathway

- Pathway for Tribal Social Workers
- Seeking Judicial Input into Education for Child Welfare Workers

10:45 – 11:30 a.m. **SESSION 3: INDIAN CHILD WELFARE ACT (ICWA) LEGISLATIVE AND RULE DISCUSSION**

Facilitators:

Hon. Leonard P. Edwards, Ret., Judge-in-Residence, Center for Families, Children & the Courts

Hon. Patricia Lenzi, Chief Judge, Cedarville Rancheria of the Northern Paiute Indians Tribal Court

11:30 a.m. – 1:30 p.m. **WORKING LUNCH: TRIBAL JUSTICE DOCUMENTARY (1.5 hours) AND PANEL DISCUSSION**

Hon. Suzanne Kingsbury, Presiding Judge, El Dorado Superior Court

Hon. Sunshine Sykes, Judge, Riverside Superior Court

Hon. Christopher G. Wilson, Judge, Humboldt Superior Court

- What State Court Can Learn from Tribal Courts
- Developing Curriculum to Complement the Documentary
- Educating Foundations

1:30 – 1:45 p.m. **PARTNERSHIP WITH THE CALIFORNIA ATTORNEY GENERAL'S OFFICE HONORING:**

Anthony Hakl, Deputy Attorney General, Office of the Attorney General, California DOJ

Olin Jones

Kathleen "Kate" Alice Kenealy

1:45 – 2:30 p.m. **SESSION 4: TRIBAL/STATE/COURT DATA EXCHANGES IN CHILD WELFARE CASES**

Karen Hanna, County Consultant (Los Angeles), Child Welfare Digital Services

Amit Rai, Interfaces Lead, Child Welfare Digital Services

Mary Jane Risling, Tribal Consultant, Child Welfare Digital Services

2:30 – 2:45 p.m. **BREAK**

- 2:45 – 3:15 p.m. **SESSION 5: JUDGE TO JUDGE COMMUNICATIONS IN NON-MONEY JUDGMENT CASES**
Hon. Joseph Wiseman, Chief Judge, Northern California Intertribal Court System
- 3:15 – 3:45 p.m. **SESSION 6: INCREMENTAL APPROACH TO RECOGNITION AND ENFORCEMENT OF NON-MONEY JUDGMENTS - WHICH CASE TYPES?**
[Note: SB 406 survey respondents recommended the following case types: probate case, trespass cases, conservatorship cases, contract cases, and family law cases.]
Hon. Lester Marston, Chief Judge, Blue Lake Rancheria Tribal Court
Hon. Mark Radoff, Chief Judge, Chemehuevi Tribal Court
- 3:45 – 4:00 p.m. **SESSION 7: ENHANCING TRIBAL-STATE COLLABORATION**
Jerry Gardner, Director, Tribal Law and Policy Institute
- 4:00 – 4:30 p.m. **SESSION 8: FORUM PRIORITIES 2017-2018 AND ANNUAL AGENDA/WORK PLAN**
Hon. Abby Abinanti
Hon. Dennis M. Perluss
Jenny Walter
- 4:30 p.m. **ADJOURN**

This meeting is supported with funds from the U.S. Department of Health and Human Services, Court Improvement Program, and the California Department of Social Services and from the Governor's Office of Emergency Services (Cal OES) Grant No. 2016-WF-AX-0049 awarded by the Office on Violence Against Women (OVW), U.S. Department of Justice, and through Grant Award No. CW 16 15). The points of view, opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibit are those of the author/s and do not necessarily represent the official position or policies of the U.S. Department of Justice or of Cal OES. Cal OES reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use materials and to authorize others to do so.



JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

www.courts.ca.gov/forum.htm
forum@jud.ca.gov

TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING

December 15, 2016

12:15-1:15 p.m.

By Conference Call

**Advisory Body
Members Present:**

Hon. Abby Abinanti, Co-chair, Hon. Dennis M. Perluss, Co-chair, Hon. April Attebury, Hon. Hilary A. Chittick, Hon. Leonard Edwards, Hon. Susanne Kingsbury, Hon. William Kockenmeister, Hon. Anthony Lee, Hon. Lester Marston, Hon. David Nelson, Hon. Mark Radoff, Hon. John Sugiyama, Hon. Christine Williams, Hon. Christopher Wilson and Hon. Joseph Wiseman

**Advisory Body
Members Absent:**

Hon. Richard Blake, Ms. Jacqueline Davenport, Hon. Gail Dekreon, Hon. Kimberly Gaab, Hon. Michael Golden, Hon. Cynthia Gomez, Mr. Olin Jones, Hon. Mark Juhas, Hon. Lawrence C. King, Hon. Patricia Lenzi, Hon. Allen Sumner, Hon. Sunshine Sykes, Hon. Juan Ulloa, Hon. Claudette White, and Hon. Zeke Zeidler

Others Present:

Ms.Carolynn Bernabe, Ms. Vida Castaneda, Ms. Elena Valdivia Fortuna, Ms. Ann Gilmour, Ms. Anna Maves, and Ms. Jennifer Walter

OPEN MEETING

Call to Order and Roll Call

The co-chairs called the meeting to order at 12:18 p.m.

Approval of Minutes

The committee approved the October 6, 2016 minutes.

DISCUSSION AND ACTION ITEMS (ITEMS 1-8)

Item 1

Cochairs Report

- *Update on ICWA Roundtables*

The ICWA Roundtables were a success. They were well-attended and evaluations were very positive. [Link to materials, p. 8]

- *Job Aid: New Federal Regulations on ICWA and New Federal Guidelines Published December 13, 2016*

Job Aid was prepared and distributed at the Juvenile Law Institute and posted to California Dependency Online Guide. [Link to materials, p. 389]

- *Truth and Reconciliation*

The Forum is exploring what steps it can take to advance a truth and reconciliation movement in California. By acknowledging California's genocidal history of Indigenous peoples, we can begin to achieve a shared understanding of our history in order to lay a foundation for reconciliation and a call to action. Judge Abinanti

invited her colleagues to form a working group to think through steps the Forum can take to serve as a catalyst for this movement. [Link to materials, p. 428]

- *Next Forum Meeting: February 16, 2017, 9:30 a.m.–4:30 p.m. in San Francisco*
Please mark your calendars and send Jenny Walter proposed agenda items.

Action Items: (1) Send Forum the Roundtable evaluation summary, job aid, and draft agenda for February; (2) Continue to provide materials on truth and reconciliation and seek presenters for February Forum meeting; and (3) Consider forming working group on truth and reconciliation- interested members to contact Jenny Walter.

Item 2

Policy Update on Information Bulletin re Enforcement of Tribal Court Protection Orders

Presenter: Justice Perluss

This one-page information bulletin [Link to materials, p. 432], issued by the Attorney General's Division of Law Enforcement, is the culmination of work by the forum in partnership with the California Department of Justice, the California State Sheriffs' Association, the U.S. Attorney General's Office, and other justice partners. This bulletin, mailed to all California law enforcement agencies, explains that tribal court protection orders are enforceable without needing to be certified, registered, or verified in any statewide database. The forum discussed whether the bulletin would have been stronger if it included information on officer liability for failure to enforce tribal protection orders. While an earlier draft addressed liability, the final bulletin did not.

Action Item: Create a 10-minute educational video emphasizing the content of the informational bulletin.

Item 3

Tribal Representation in ICWA Cases and Pro Hac Vice Fees

- Proposed Court Rule in Michigan to Waive Pro Hac Vice Fees and Other Limits for Out of State Tribal ICWA Attorneys by Kate Forte
- CA State Bar FAQs Pro Hac Vice
- CA Court Rule 9.40 Pro Hac Vice

Presenter: Judge Abinanti

Judge Abinanti proposed approaching the California State Bar Association to request a general waiver of pro hac vice fees for out-of-state counsel for tribes as they severely limit tribal access to state courts in ICWA cases. The Forum agreed to undertake this issue, but felt it wise to delay this request to a more strategic time to approach the State Bar. [Link to Materials, p. 433]

Action Item: Add this project to the Forum's annual agenda (work plan).

Item 4

Protecting Children and Tribal Access to Child Abuse Central Index

Presenter: Jenny Walter

Tribes have limited access to the Child Abuse Central Index. This issue was brought to the attention of the Forum by Delia Parr, California Indian Legal Services, at its October teleconference. Staff was directed to prepare a memorandum describing the problem in more detail and presenting potential solutions. The Forum discussed the problems posed by tribal lack of access and directed staff to pursue with California Department of Justice

(DOJ) the non-legislative solutions identified in the memorandum. [See link to materials, p. 440]

Action Item: Contact DOJ to explore non-legislative solutions. Forum members to contact Jenny if they wish to participate in this project.

Item 5

Rule and Form Proposals

- Revise California Rule of Court, rule 5.552

Presenter: Ann Gilmour

This proposal will revise rule 5.552 to conform to the requirements of subparagraph (f) of section 827 of the Welfare and Institutions Code, which was added effective January 1, 2015 to clarify the right of an Indian child's tribe to have access to the juvenile court file of a case involving that child. At that time, no changes were made to California Rules of Court, rule 5.552. Contrary to section 827 as amended, Rule 5.552 continues to require that representatives of an Indian child's tribe petition the juvenile court if the tribe wants access to the juvenile court file.

The Forum discussed the proposal to eliminate this inconsistency and agreed to jointly propose this rule change with the Family and Juvenile Law Advisory Committee (committee).

Action Item: Forward proposal to the committee for its input. If there are no substantive changes, the proposal will be submitted to the Rules and Projects Committee by February 7, 2017, and circulated for public comment, February 27 – April 28, 2017.

- Revise California Rule of Court, rule 5.372

Presenters: Judge Abby Abinanti

Judge Christopher Wilson

This proposal would revise Rule 5.372 (formerly 5.380) to provide a consistent procedure for the discretionary transfer of title IV-D child support cases from the state courts to tribal courts in cases of concurrent jurisdiction. This proposal grew out of the cross-court educational exchange convened by Judge Abinanti and Judge Wilson. Representatives of the State Department of Child Support Services, local county child support agencies, the tribal child support program, the tribal court, the state courts, and Judicial Council staff met to review the case transfer procedures and proposed a number of revisions to improve the transfer process. Key changes include: (1) a presumption of concurrent jurisdiction in cases where the child is a tribal member or eligible for tribal membership; (2) evidence that may be relied upon to support the court's finding of concurrent jurisdiction; (3) limiting the factors to be considered in determining whether to transfer to tribal court and specifically removing from consideration the perceived adequacy of tribal judicial systems; (4) authorizing judge-to-judge communication between the state court and tribal court under certain conditions; and (5) permitting a transfer back from tribal court to state court if tribal court declines to take jurisdiction.

The forum discussed the proposal and agreed to jointly propose this rule change with the Family and Juvenile Law Advisory Committee (committee).

Action Item: Forward proposal to the committee for its input. If there are no substantive changes, the proposal will be submitted to the Rules and Projects Committee by February 7, 2017, and circulated for public comment, February 27 – April 28, 2017.

- **Concept Proposal: Judge-to-Judge Communications**

Presenter: Judge Joseph Wiseman

This proposal was raised during the ICWA Roundtable. Judge Wiseman asked his Forum colleagues to share their experiences having judge to judge communications across jurisdictional lines. Several Forum members described using the provisions of the Uniform Child Custody Jurisdiction Enforcement Act to have such communications about child custody disputes. The Forum was reminded that SB 406 has a similar provision that permits the court, after notice to all parties, to attempt to resolve any issues raised regarding a tribal court money judgment by contacting the tribal court judge who issued the judgment. Additional safeguards were included: the court must allow the parties to participate in the communication and a record of any communication with the tribal court judge must be prepared. See California Civil Code of Procedure section 1740.

Action Item: Add policy proposal to forum's annual agenda (work plan).

Item 6

Other Business

Justice Perluss showed his appreciation for Forum members by giving both a warm welcome to Judge Chittick, the forum's newest member, and thanking Judge Nelson for his many contributions to the forum as it was his last meeting before retiring.

Item 7 (as time permits) Deferred to next forum meeting

ICWA Legislation- Strategy Discussion

*Presenters: Judge Leonard P. Edwards, Ret.
Judge Patricia Lenzi*

Item 8 (as time permits) Deferred to the next Forum meeting

Recognition and Enforcement of Non-Money Judgments- Banishment, Unlawful Detainer, Other?

[Note: SB 406 survey respondents recommended the following case types: probate case, trespass cases, conservatorship cases, contract cases, and family law cases.]

*Presenters: Judge Lester Marston
Judge Mark Radoff*

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:15 p.m.

Pending approval by the advisory body on _____.

To The Honorable Abby Abinanti and The Honorable Dennis M. Perluss,

My recent experiences in Blue Lake Tribal Court have given me a perspective on the Tribal Court Civil Money Judgement Act that I'd like to share with you.

Over the past year, I've been defending against an action the Blue Lake Rancheria brought against me in the Blue Lake Tribal Court. Blue Lake alleges I fraudulently induced their casino into entering a contract back in 2010, and asks for \$250,000, plus interest, attorney's fees, and damages. I dispute the allegations and my defense has included two federal actions against Blue Lake and its Chief Judge Marston, the second of which is still pending.

When I first learned Blue Lake was suing me in its tribal court I quickly found the Tribal Court Civil Money Judgement Act. Looking back, I am very grateful that the Act put me on notice that tribal court judgments were enforceable. The summons in Blue Lake Tribal Court required answer within five days, and, if I hadn't quickly found the Act, it's doubtful I could've oriented myself within Indian law quickly enough to know how tribal court judgments were enforced under comity, and probably just would've risked default at the end of the five days.

That said, I believe there are significant areas in which the Act can be strengthened to further the interests of justice.

Section 1737(c)(8) provides that the superior court may decline to recognize a judgment if the specific proceeding that produced the judgment did not provide due process. As a defendant, it doesn't seem right that a superior court should ever have discretion to recognize a judgement that arose from a proceeding that did not provide due process.

In my specific case, I believe Blue Lake Tribal Court is incapable of providing due process, since a Blue Lake enterprise is suing an outsider in Blue Lake Tribal Court. I'm sued for a minimum of \$250,000, and there are fewer than sixty tribal members. This means that each tribal member who might be on a jury, or who might decide on renewing the tribal judge's contract, will stand to be enriched by at least \$4,000 should the case go against me. This seems to be a set of facts where, like in *Caperton v. Massey*, 556 US 868 (US 2009), "under a realistic appraisal of psychological tendencies and human weakness [there is] such a risk of actual bias" that due process can't be guaranteed.

But under Section 1737(c)(8), even if I established due process wasn't given me by the tribal court, the superior court might still find the resulting judgment enforceable.

In my specific instance, Judge Marston, who until recently was the presiding judge over my tribal court case, is also Blue Lake's attorney, advising them on everything from compact negotiations to the purchase of fire trucks and bringing land into trust. Judge Marston even lied to me in tribal court, claiming that he wasn't Blue Lake's attorney, and only recused himself after I confronted him with declarations from Humboldt Superior Court, in which Judge Marston declared himself to be Blue Lake's attorney.

Yet even with this astounding set of facts, I can't find where Section 1737 gives me a safe harbor, where I can rest in tranquil certainty that a Blue Lake judgment won't be enforced.

This is made all the worse by Section 1739(b), which gives Blue Lake ten years to bring a state court action against me to recognize their tribal court judgment. This means that even with all that has happened, I still can't walk away from Blue Lake Tribal Court. One can easily imagine if I did walk away, that sometime in 2026 I might be standing before superior court judge, arguing against a sovereign's presumptively enforceable default for fraud, and armed with nothing but stale memories from an improbable tale of judicial misconduct.

Taking my experience as a whole, I have two observations I'd like to share with the Forum about the Tribal Court Civil Money Judgment Act, from the perspective of someone who has lived with it. The first is that the act can benefit non-member defendants in tribal court by clarifying how tribal court judgments interface with state law. My second observation is that the interplay between Section 1737 and Section 1738 of the Act is allowing bad faith tribal actors to use the threat of state court enforcement as a cudgel to beat settlements out of non-tribal litigants.

I don't pretend to know how the Tribal Court Civil Money Judgment Act ought to be improved to take account of the problems my experience has exposed. And I certainly recognize that it's not an easy fix. But as co-sponsors of SB 406, I thought my first-hand testimony might be useful for the Forum doing its work going forward.

To that end, I hope that I'll have a chance to speak to the Forum at the annual meeting, and will be happy to make myself available to talk about the practical effects of SB 406 as felt by Californians impacted by it.

Sincerely,



James Acres
james@kosumi.com

Tribal Court-State Court Forum

As of February 2017

Hon. Dennis M. Perluss, Co-Chair

Presiding Justice of the Court of Appeal
Second Appellate District, Division Seven

Hon. Leonard P. Edwards (Ret.)

Volunteer Mentor Judge of the
Center for Families, Children & the Courts
Judicial Council of California

Hon. Abby Abinanti, Co-Chair

(Yurok)
Chief Judge of the Yurok Tribal Court
Klamath, California

Hon. Kimberly A. Gaab

Assistant Presiding Judge of the Superior Court of
California,
County of Fresno

Hon. April E. Attebury

(Karuk)
Chief Judge of the Karuk Tribal Court
Yreka, California

Hon. Michael Golden

Chief Judge of the Morongo Tribal Court
Banning, California

Hon. Richard C. Blake

(Tolowa Dee-Ni', Hoopa and Redding Rancheria)
Chief Judge of the Tolowa Dee-Ni' Nation,
Hoopa and Redding Rancheria Tribal Court
Hoopa, Redding, and Smith River,
California

Hon. Cynthia Gomez

(Tule River Yokut Tribe)
Tribal Advisor of the Office of Governor
Edmund G. Brown, Jr.
Sacramento, California

Hon. Hilary A. Chittick

Judge of the Superior Court of California,
County of Fresno

Mr. Olin Jones

(The Chickasaw Nation of Oklahoma)
Director of the Office of Native American
Affairs, California Attorney General's Office
Sacramento, California

Ms. Jacqueline Davenport

Assistant Court Executive Officer
Superior Court of California,
County of El Dorado

Hon. Mark A. Juhas

Judge of the Superior Court of California,
County of Los Angeles

Hon. Gail Dekreon

Judge of the Superior Court of California,
County of San Francisco

Hon. Lawrence C. King

Chief Judge of the Colorado River Indian Tribes
Parker, Arizona

Tribal Court-State Court Forum

As of February 2017

Hon. Suzanne N. Kingsbury

Presiding Judge of the Superior Court of California,
County of El Dorado

Hon. John H. Sugiyama

Judge of the Superior Court of California,
County of Contra Costa

Hon. William Kockenmeister

Chief Judge of the Bishop Paiute Indian
Tribal Court
Bishop, California

Hon. Allen H. Sumner

Judge of the Superior Court of California,
County of Sacramento

Chief Judge of the Washoe Tribal Court
Gardnerville, California

Hon. Sunshine S. Sykes

Judge of the Superior Court of California,
County of Riverside

Hon. Anthony Lee

(St. Regis Mohawk Tribe)
Chief Judge of the San Manuel Tribal Court
Highland, California

Hon. Juan Ulloa

Judge of the Superior Court of California,
County of Imperial

Hon. Patricia Lenzi

Chief Judge of the Cedarville Rancheria of Northern
Paiute Indians Tribal Court
Alturas, California

Hon. Claudette C. White

(Quechan)
Chief Judge of the Quechan Tribal Court
Winterhaven, California

Hon. Lester J. Marston

(Chiricahua and Cahuilla)
Chief Judge of the Blue Lake
Rancheria Tribal Court
Blue Lake, California

Hon. Christine Williams

(Yurok)
Chief Judge of the Shingle Springs Tribal Court
Shingle Springs, California

Hon. Mark Radoff

Chief Judge of the Chemehuevi Tribal Court
Havasu Lake, California

Hon. Christopher G. Wilson

Assistant Presiding Judge of the Superior Court of
California,
County of Humboldt

Tribal Court-State Court Forum

As of February 2017

Hon. Joseph J. Wiseman

Chief Judge of the Dry Creek Rancheria Band of Pomo Indians
Santa Rosa, California

Chief Judge of the Northern California Intertribal Court System
Hopland, California

Hon. Daniel Zeke Zeidler

Judge of the Superior Court of California,
County of Los Angeles

INFORMATION TECHNOLOGY ADVISORY COMMITTEE LIAISON

Hon. Joseph J. Wiseman

Chief Judge of the Dry Creek Rancheria Band
Chief Judge of the Northern California Intertribal Court System

TRIAL COURT PRESIDING JUDGES AND COURT EXECUTIVES ADVISORY COMMITTEES LIAISON

Hon. Suzanne N. Kingsbury

Presiding Judge of the Superior Court of California, County of El Dorado

JUDICIAL COUNCIL STAFF TO THE COMMITTEE

Ms. Jennifer Walter

Supervising Attorney
Center for Families, Children & the Courts
Operations and Programs Division
Judicial Council of California

Ms. Carolynn Bernabe

Administrative Coordinator
Center for Families, Children & the Courts
Operations and Programs Division
Judicial Council of California

SESSION 1:
Forum Member Project Updates

Educational Projects—Report on
California Civic Learning Summit

Proposal for Children and Youth Residing in Humboldt County

Background

Education is a fundamental Indigenous right, guaranteed in treaties, international law, and case law. In particular, the United Nations Declaration on the Rights of Indigenous Peoples contains a powerful statement on the right to education under community control. The Declaration states, “Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.” State and federal law promote the following services

- 1) Enrichment programs that focus on the development of problem-solving and cognitive skills needed for attaining state academic content standards
- 2) Culturally related activities that support the district's educational programs
- 3) Activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the district.
- 4) Family literacy services.
- 5) Activities that recognize and support the unique cultural and educational needs of Indian children and incorporate appropriately qualified tribal elders.

History¹

In 1855, the U.S. Government ordered the Yurok People to be confined on the Klamath River Reserve which was created by Executive Order. The relocation of Yurok families to unfamiliar lands caused great hardships. The forced removal of Yurok children to U.S. Government boarding schools where they were denied the right to practice their cultural traditions caused the disruption of the Yurok People's heritage. Western education was imposed on Yurok children beginning in the late 1850s at Fort Terwer and at the Agency Office at Wauk-ell. This form of education continued until the 1860s when the Fort and Agency were washed away. Yurok children, were sent to live at the Hoopa Valley Reservation, where they continued to be taught by missionaries. The goal of the missionary style of teaching was to eliminate the continued use of cultural teachings that Indian children's families taught. Children were abused by missionaries for using the Yurok language and observing cultural and ceremonial traditions. In the late 1800s children were removed from the Reservation to Chemawa in Oregon and Sherman Institute in Riverside, California. Today, many elders look back on this period in time as a horrifying experience because they lost their connection to their families, and their culture. Many were not able to learn the Yurok language and did not participate in ceremonies for fear of violence being brought against them by non-Indians. Some elders went to great lengths to escape from the schools, traveling hundreds of miles to return home to their families. They lived with the constant fear of being caught and returned to the school. Families often hid their children when they saw government officials. Over time the use of boarding schools declined and day schools were established on the Yurok Reservation. Elders recall getting up early in the morning, traveling by canoe to the nearest day school and returning home late at night. The fact that they

¹ Yurok Tribe's website, <http://www.yuroktribe.org/culture/>

were at day schools did not eliminate the constant pressure to forget their language and culture. Families disguised the practice of teaching traditional ways, while others succumbed to the western philosophy of education and left their traditional ways behind. Eventually, Indian children were granted permission to enroll in public schools. Although they were granted access, many faced harsh prejudice and stereotypes. These hardships plagued Indian students for generations, and are major factors in the decline of the Yurok language and traditional ways.

Proposal

This proposal is put forward in the spirit that fulfilling the promise of the United Nations Declaration will be key to overcoming the legacy of colonization and state-run boarding schools. We will create awareness of the past and the harms inflicted, commit to changing behaviors, and work together towards a prosperous future for all children. As we design a pilot project, we are mindful that literacy is a cornerstone of civic engagement and a bi-cultural mindset is necessary to foster greater awareness of our shared past so that we can heal, learn, and grow. We will design this pilot following six research-based proven practices in civic education.²

This project proposes to improve civic and literacy outcomes for students by:

- (1) Targeting children in (fourth grade) who are reading below grade level;
- (2) Offering enhanced civics curriculum that dispels the myths of mission- and government- run boarding schools;
- (3) Engaging families in cross-cultural educational exchanges during the calendar year;
- (4) Promoting learning and civic engagement through pilots identified by the leadership group;
- (5) Developing shared values³ that may seed a truth and reconciliation project that acknowledges California’s genocidal history with respect to Indigenous peoples, fosters an understanding of our shared history, and lays a foundation for reconciliation

The Need and Meeting the Need with Proven Practices

Too many of our third and fourth graders are not reading at grade level.

	Not Met by Third Grade	Not Met by Fourth Grade
All Students	33% (187 out of 1,379 students)	41% (585 out of 1,427 students)
Economically Disadvantaged	41% (346 out of 843 students)	51% (437 out of 856 students)
American Indian/Alaska Native	58% (67 out of 116 students)	58% (78 out of 134 students)

² These proven practices are provided by the Guardian of Democracy: The Civic Mission of Schools report, from the Leonore Annenberg Institute for Civics of the Annenberg Public Policy Center at the University of Pennsylvania, the Campaign for the Civic Mission of Schools, the Center for Information and Research on Civic Learning and Engagement at Tufts University, the American Bar Association Division for Public Education, and the National Conference on Citizenship. Full copies of the report are available at www.ncoc.net/guardianofdemocracy.

³ Values such as those contained in the Full Apology to the Native American, Alaska Native, and Native Hawaiian People, drafted by Psychoanalysis for Social Responsibility, Section IX of Division 39 (Psychoanalysis), American Psychological Association- listening more and talking less; following more and steering less; advocating more and complying less; including more and ignoring less; and, collaborating more and commanding less.

- Too many of our children are unaware of local history and how it relates to current local, national, and international issues and events.

Proven Practice #1: Pilot will integrate opportunities to discuss current tribal/state/county issues in a classroom setting and relate them to history.

- Too many of our children do not have the opportunity to apply what they learn through performing community service that bridge tribal and non-tribal communities.

Proven Practice #2: Pilot will develop bridging opportunities for community service. Students learn about the political process through a student-centered process in which young people take local action on specific issues in their communities.

- Too many of our children do not have the opportunity to participate in extracurricular activities that provide opportunities for young people to get involved in their schools and communities.

Proven Practices #3 and #4: Pilot will work with extracurricular spaces, afterschool programs, and school clubs, in which young people may get involved in their schools, communities, and engage in political practice in the context of positive youth leadership and development. Pilot will encourage student participation in school governance and community leadership.

- Too many of our children do not receive instruction on how they can exercise their rights and responsibilities in a democracy.

Proven Practice #5: Pilot will encourage students' participation in simulations of democratic processes and procedures. For example, youth court, historical reenactment/historical figures.

- Too many of our children do not receive instruction in government, history, law, and democracy.

Proven Practice # 6: Pilot will give instruction in California history (focusing on local tribal/settler history), tribal and nontribal government, tribal and state laws, and democracy

Potential Resources

Local:

- 1) Hoopa Valley Tribe
(American Indian Resource Centers- Education)
Jenna Hailey, Program Manager
530-625-4040; kerry.venegas@gmail.com

- 2) Humboldt County
 - Office of Education
After School Consortium and Redwood After School Network
<http://www.humboldt.k12.ca.us/edserv-afterschool.php>
 - Indian Action Council of NW CA, Inc.
Coleen Bruno, Director
2905 Hubbard Lane, Suite C
Eureka, CA 95501
707-443-8401
Fax: 707-443-9281
E-mail: indianaction@att.net

- 3) Siskiyou County of Education
 - Siskiyou Afterschool For Everyone (SAFE) is a consortium of 20 school sites and the Siskiyou County Office of Education <http://www.siskiyoucoe.net/domain/30>
 - Happy Camp Union Elementary School District
Happy Camp Elementary School, Casey Chambers, Superintendent/Principal
Phone: 530-493-2267; E-mail: cchambers@happycamp.k12.ca.us

Happy Camp Elementary School is a small, rural school, deep in the Klamath National Forest in Siskiyou County. Over 90 percent of students qualify for free and reduced lunch. Of the 122 students enrolled, seventy-five students identify as Native American. Program focuses on our Kindergarten through fourth grade. While the main goal of the program is to improve our student's academic skills, we try to do that through infusion of cultural resources. We purchased a supplemental Reading/Language Arts Program called *Nanu'avaha*, which uses Karuk stories and culture in every lesson. Lastly our grant focuses on professional growth. With over 60 percent Native American students, we want to have our staff learn the best teaching strategies for increasing the achievement of these students.

- 4) Yurok Tribe
Rosie Clayburn
Acting Cultural Resource Manager
rclayburn@yuroktribe.nsn.us
(707) 482-1350 ext. 1309 office

Statewide:

- 1) California Department of Education

- All statistics cited here are from the California Assessment of Student Performance and Progress (CAASP) <http://caaspp.cde.ca.gov/>
 - Statewide resources at this link: www.cde.ca.gov/sp/ai/ps/
 - California Curriculum Frameworks: www.cde.ca.gov/ci/cr/cf/allfwks.asp
 - California English Language Arts/English Language Development (ELA/ELD) Framework table of all content areas, including civic education: www.cde.ca.gov/ci/rl/cf/elaeldvignapsnapshots.asp
 - California State Standards: www.cde.ca.gov/re/cc
 - State Superintendent of Public Instruction Civic Education Initiative: www.cde.ca.gov/eo/in/civicedinitiative.asp
- 2) California's History
An American Genocide by Benjamin Madley
<https://www.youtube.com/watch?v=qSKKcIZUw8w>
<http://ohp.parks.ca.gov/pages/1054/files/american%20indians%20in%20california.pdf>
- 3) California Judicial Branch
College, Career, and Civic Life (C3) Framework for Social Studies State Standards:
 - Civic Learning Award winners, 2013–2016: www.courts.ca.gov/23201.htm
 - Civic Learning Award Rubric, 2015–2016: www.courts.ca.gov/23201.htm, under the Criteria tab
- 4) Los Angeles County of Education
Curriculum Aligning Common Core with Civic Education
Preparing Students for College, Career, and CITIZENSHIP: A California Guide to Align Civic Education and the Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science and Technical Subjects:
www.lacoe.edu/Portals/0/Curriculum-Instruction/CA%20FINAL%20Preparing%20Students.pdf
- National:
- 1) Every Student Succeeds Act, P.L. 114-95, See Subpart 2—Special Programs and Projects to Improve Educational Opportunities for Indian Children, SEC. 6121. 20 U.S.C. 7441
<https://www.ed.gov/essa>
 - 2) Generation Citizen, <http://generationcitizen.org/wp-content/uploads/2016/03/FINAL-Educating-for-Democracy-11.16.15.pdf>
 - 3) National Council for Social Studies, www.socialstudies.org/c3
 - 4) Native Services Clubs- part of Boys and Girls Club nationally (note they are all over the country, but not one in CA)
<https://www.naclubs.org/>
 - 5) Zinn Education Project
<https://zinnedproject.org/teaching-materials/?themes=native-american>



POWER OF DEMOCRACY STEERING COMMITTEE

455 Golden Gate Avenue
San Francisco, CA 94102-3688
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TDD 415-865-4272
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HONORARY CHAIR
Chief Justice of California

HON. JUDITH D. MCCONNELL, CHAIR
*Administrative Presiding Justice, Court of Appeal,
Fourth Appellate District*

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COMMITTEE STAFF

MS. DEBORAH GENZER
*Senior Court Services Analyst
Judicial Council of California*

To: Current and Interested California Civic Learning Partnership Leaders

Re: Working Session on California Civic Learning Partnerships

I am pleased to invite you to an afternoon working session for Civic Learning Partnership leaders immediately following the California Civic Learning Summit 2.0. This working meeting is for both existing pilot partnerships and county teams interested in starting their own partnerships. The working meeting will provide a panel presentation by pilot Civic Learning Partnership leaders about lessons learned, an update on the new History/Social Science Curriculum Framework rollout, and a briefing on relevant state and national developments. County teams will then have the opportunity to explore a new Civic Learning Partnership Toolkit, including sample materials.

California Civic Learning Partnerships: Working Session Tuesday, February 14, 2017

12:15 p.m.–3:00 p.m. (immediately following the summit)

Lunch will be provided

**California Secretary of State Auditorium
1500 11th Street, Sacramento, California**

To register for the afternoon working session, please e-mail Lynne.Mayo@jud.ca.gov by 5 p.m. on January 30, 2017, with your name, title, organization/affiliation, and county.

Due to limited space, the working session is by invitation only for up to five leaders from each county, including the superintendent of schools, a judicial officer, and a business leader.

Should you have any questions, please don't hesitate to contact Ms. Deborah Genzer at 415-865-8755 or deborah.genzer@jud.ca.gov.

Sincerely,

Justice Judith D. McConnell



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*Senior Court Services Analyst
Judicial Council of California*

Chief Justice Tani G. Cantil-Sakauye

invites you to attend the

California Civic Learning Summit 2.0

*Featuring U.S. Supreme Court Justice
Anthony M. Kennedy*

I am pleased to extend this invitation to you to attend California Civic Learning Summit 2.0, where U.S. Supreme Court Justice Anthony M. Kennedy will be our keynote speaker. This event will bring together law, education, labor, business, and community leaders; elected officials; and K–12 students to celebrate the great strides we have made toward revitalizing civic learning and engagement for our students and to look ahead to next steps. Together we are striving to prepare all young people in California for participation in civic life in the 21st century.

Tuesday, February 14, 2017

9:30 a.m.–12:15 p.m.

Registration and a light breakfast: 8:30–9:30 a.m.

California Secretary of State Auditorium


1500 11th Street, Sacramento, California

To RSVP, please e-mail Lynne.Mayo@jud.ca.gov by 5 p.m. on January 30, 2017, and provide your name, title, and organization/affiliation.

Due to limited space, the summit is by invitation only, on a first-come, first-served basis.

Speakers include U.S. Supreme Court Justice Anthony M. Kennedy, California Chief Justice Tani G. Cantil-Sakauye, Secretary of State Alex Padilla, and State Board of Education President Michael Kirst.

Partnerships—Enforcement of Tribal
Protection Orders—Making Full Faith
and Credit a Reality

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Larry J. Wallace, Director</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i> Enforcement of tribal court protection orders</p>	<p><i>No.</i> DLE-2016-03</p> <p><i>Date:</i> 11/29/16</p>	<p><i>Contact for information:</i> Larry J. Wallace, Director Division of Law Enforcement (916) 319-8200</p>

TO: All State and Local Law Enforcement Agencies

Both California and federal law require all law enforcement officers of this state to enforce tribal court protection orders, sometimes called “protective orders.” (Cal. Fam. Code, §§ 6400-6409 [Uniform Interstate Enforcement of Domestic Violence Protective Orders Act]; 18 U.S.C. § 2265 [Violence Against Women Act; federal law requiring “full faith and credit” be given to tribal court protection orders].)

Presentation of a protection order that identifies both the protected individual and the individual against whom enforcement is sought and, on its face, appears to be currently in effect constitutes probable cause to believe that a valid tribal court protection order exists. (Cal. Fam. Code, § 6403, subd. (a).)

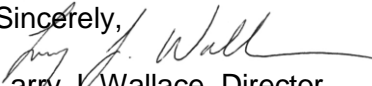
Once there is probable cause to believe that a valid tribal court protection order exists, a law enforcement officer must enforce the order as if it were an order issued by a California court. (Cal. Fam. Code, § 6403, subd. (a); 18 U.S.C. § 2265(a).) If a protection order is not presented, a law enforcement officer may consider other information to determine if there is probable cause to believe that a valid order exists. (Cal. Fam. Code § 6403, subd. (b).)

Law enforcement officers must enforce valid tribal court protection orders and shall not require any of the following:

- (1) Presentation of a certified copy of the tribal court protection order. The order may be inscribed on any tangible medium or stored in an electronic or other medium if it is retrievable in perceivable form. (Cal. Fam. Code, § 6403, subd. (a).)
- (2) Registration or filing of the protection order with the state. (Cal. Fam. Code, § 6403, subd. (d).)
- (3) Verification in any statewide database (for example, the California Law Enforcement Telecommunications System (CLETS) or the California Restraining and Protective Order System (CARPOS)). (Cal. Fam. Code § 6403, subd. (d).)

If a law enforcement officer determines that an otherwise valid tribal court protection order cannot be enforced because the respondent (i.e., the individual against whom enforcement is sought) has not been notified or served with the order, the officer shall inform him or her of the order, make a reasonable effort to serve the order, and allow him or her a reasonable opportunity to comply with the order before enforcing it. Verbal notice of the order is sufficient. (Cal. Fam. Code, § 6403, subd. (c).)

Sincerely,



Larry J. Wallace, Director
Division of Law Enforcement

For KAMALA D. HARRIS
Attorney General

Policies



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688
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MEMORANDUM

Date

December 30, 2016

Action Requested

Review and Request Access

To

Mr. Olin Jones
Director, Native American Affairs Office
California Department of Justice

Deadline

February 16, 2017

From

Judge Abby Abinanti, Cochair
Justice Dennis Perluss, Cochair
Tribal Court-State Court Forum

Contact

Jenny Walter, CFCC
415-865-7687 phone
jennifer.walter@jud.ca.gov

Subject

Protecting Children and Tribal Access to
Child Abuse Central Index

On behalf of the Tribal Court-State Court Forum (forum), we are writing to explore executive agency action to permit tribal access to the Child Abuse Central Index (Index). The forum discussed the topic at its October and December teleconferences, and recommended making this formal request of the California Department of Justice.

Background

In 1980, the California Legislature enacted Penal Code sections 11169 and 11170 that specifically directed the California Department of Justice (DOJ) to establish a statewide database¹ to maintain information regarding all substantiated reports of child abuse and severe

¹ This database is known by the following names: the Automated Child Abuse System (ACAS), the Child Abuse Central Index (CACI) and the Index. The statute governing it is the Child Abuse and Neglect Reporting Act (Act). The regulations implementing the Act and specifically the Index are at Title 11 California Code of Regulations, Division 1, Chapter 9.

neglect that are investigated in California. The information in this database or Index is available to a number of statutorily authorized persons and agencies, including law enforcement, county welfare agencies (including their foster care and child care licensing organizations) and county probation departments that are conducting a child abuse investigation associated with information contained in the database. (See Pen. Code § 11165.9.) It is also available to tribal agencies in limited circumstances—when seeking background criminal information for use in approving a home for the placement of a child and screening prospective employees who may have contact with children. (See Pen. Code § 11170(b)(3) and Welf. & Inst. C. § 10553.12.)

Generally, the Index is used to aid law enforcement investigations and prosecutions, and to provide notification of new child abuse investigation reports involving the same suspects and/or victims. Information is also used to help screen applicants for licensing or employment in child care facilities, foster homes, and adoptive homes. The purpose of allowing access to this information on a statewide basis is to quickly provide authorized agencies, including tribal agencies, with relevant information regarding individuals with a known or suspected history of abuse or neglect.

The Problem

While tribal agencies can obtain information from the Index, they cannot readily submit information to the Index. In practice, only certain agencies are authorized to investigate and report cases to DOJ for inclusion in the Index, and those agencies must have “conducted an active investigation.” (Pen. C. § 11169(a).) Pen. Code § 11165.9 specifies those agencies and tribal agencies are not among them. If a tribal social service agency investigates and substantiates an incident of child abuse or severe neglect, the tribal agency can report that to a statutorily authorized agency, typically a county child welfare agency, which in turn must conduct an “active investigation” by:

- Assessing the nature and seriousness of the known or suspected abuse;
- Interviewing the victims and any known suspects and witnesses, when appropriate and/or available;
- Gathering and preserving evidence;
- Determining whether the incident is substantiated, inconclusive or unfounded; and
- Preparing a report that will be retained in the agency's files. (See 11 CCR § 901.)

If the county’s investigation confirms the findings of the tribal agency, then it must notify the DOJ, notify the known or suspected child abuser, in writing, that he or she has been reported to the Index, and retain the investigative reports underlying the report. (Pen. Code § 11169.)

This practice poses several problems: (1) suspected or known abusers remain in the home of a child posing safety risks; (2) unnecessary duplication of effort by agencies; (3) delays in entry into the Index due to double investigations; and (4) barriers to sharing information among tribal and nontribal agencies that should be working together to protect children.

Potential Solutions

- (1) Legislative change- adding tribal agencies to the list of authorized agencies in Penal Code § 11165.9.
- (2) Seek DOJ interpretation to permit tribal agencies to submit reports directly to DOJ for inclusion in the Index.
- (3) Seek DOJ interpretation of its regulations to exempt child welfare agencies from conducting an active investigation for reports made by tribal agencies and direct child welfare agencies to submit tribal reports to DOJ for entry into the Index.

The forum considered all three solutions and recommends that the DOJ explore solution two for the following reasons.

The first solution would likely face challenges in the Legislature, and it may be unnecessary.

The second solution is the most direct because access to the Index rests with DOJ. The policy argument in favor of granting access is clear given the child safety concerns described above. The legal argument is presented below.

Federal law has numerous provisions that require a state or tribe to consider how children can be kept safe. (Part E of Title IV of the Social Security Act codified at 42 United States Code section 670 et seq. (Title IV-E).) Background check requirements for prospective foster and adoptive parents or guardians are one means. Several additional requirements for ensuring child safety with which a state or tribal child welfare program must comply include checking any child abuse and neglect registry maintained by a State/Indian Tribe in which the adults living in the home of a prospective foster or adoptive parent have resided in the preceding five years. Title IV-E at section 471(20)(A) requires criminal record clearances prior to approval of prospective foster and adoptive parents. Federal law contemplates that a tribe operating its own tribal social service agency would have the necessary tools to work with the state and county to ensure child safety. Thus, federal law strongly suggests tribes should have direct access to the Index to input relevant information.

Although reasoning from the converse, because the Act provides that Index information may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or severe neglect (See Pen. Code § 11167(b)), that same agency should also be able to submit information to the Index.

As enacted, Penal Code § 11165.9 was intended simply to inform mandated and non-mandated reporters of child abuse and neglect where to make their reports and was never intended to limit access to the enumerated agencies.² Because Penal Code § 11170(a) gives DOJ the authority to

² See Legislative Counsel's Digest for AB 1241 (2000).

Mr. Olin Jones
December 30, 2016
Page 4

“adopt rules governing recordkeeping and reporting pursuant to this article” it can give access to other entities, including tribal agencies.

The third solution, while better than the current situation, is less desirable than the first and second solutions, because of the potential for human error and delays. The Act specifies that each of the agencies enumerated in statute are required to accept a child abuse report. (See Pen. Code § 11165.9.) Therefore, if one of these agencies receives a report of child abuse from a tribal entity, it must accept the report. A regulation that exempts the enumerated agencies from reinvestigating the report submitted by a tribal agency would release the agency from its obligation to conduct an “active investigation.” Adding a regulation that implements Penal Code § 11169(c) to clarify that upon receipt of a tribal report, the agency enumerated in statute will promptly serve the notice on the known or suspected child abuser, in writing, that he or she has been reported to the Index, and retain the tribal investigative reports underlying the tribal agency’s report, would ensure that the existing statutory procedures are followed.

In conclusion, we respectfully request that the DOJ explore solution two above and invite you to present a response at the next forum meeting on February 16, 2017.

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Indian Child Welfare Act: Amend Rule 5.552 to Allow Indian Child's Tribe Access to Court Records Consistent with Welfare and Institutions Code Section 827	Please review
	Proposed Effective Date
	January 1, 2018
Proposed Rules, Forms, Standards, or Statutes	Contact
Amend Cal. Rules of Court, rule 5.552	Ann Gilmour, Attorney 415-865-4207 ann.gilmour@jud.ca.gov
Proposed by	Jennifer Walter, Supervising Attorney 415-865-7687 jennifer.walter@jud.ca.gov
Family and Juvenile Law Advisory Committee	
Hon. Jerilyn L. Borack, Cochair	
Hon. Mark A. Juhas, Cochair	
Tribal Court–State Court Forum	
Hon. Abby Abinanti, Cochair	
Hon. Dennis M. Perluss, Cochair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee (committee) and Tribal Court–State Court Forum (forum) jointly propose to amend California Rules of Court, rule 5.552 to conform to California statutory law. This proposal is in response to comments from practitioners and court staff advising that the discrepancies between the rule and statutory requirements were causing confusion.

Background

Effective January 1, 2015, Assembly Bill 1618 (Stats. 2014, ch. 57, § 1) added subdivision (f) to section 827 of the Welfare and Institutions Code¹ to clarify the right of an Indian child's tribe to have access to the juvenile court file of a case involving that child. At that time, no changes were made to rule 5.552 of the California Rules of Court, which implements this section. Contrary to section 827 as amended, rule 5.552 continues to require that representatives of an Indian child's

¹ Unless otherwise noted, all further statutory references are to the Welfare and Institutions Code.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

tribe petition the juvenile court if the tribe wants access to the juvenile court file. This inconsistency has created confusion and results in unnecessary motions.

In addition, court staff have noted that rule 5.552(d)(1)(C) requires that notice of a petition for disclosure be served on “[t]he child,” while the relevant statutes stipulate that notice be served on a child 10 years of age or older.² Commentators have noted that serving notice on an infant or young child makes no sense and is a waste of resources.

In addition to these two inconsistencies, the committee and forum also recommend that language in the rule that is duplicative of statutory language be deleted. This follows the request of the Judicial Council Rules and Projects Committee that the Family and Juvenile Law Advisory Committee review rules to determine what language is unnecessarily duplicative of statutory language and recommend rule revisions as appropriate. Since repetitions of statutory text in the rules of court necessitate that they be amended whenever the underlying statutes are amended, deleting the duplicative language will reduce the frequency of rule amendments.

The Proposal

This proposal would:

- Delete subdivision (b) of the rule, which is duplicative of section 827(a). This deletion also addresses the inconsistency between the rule and section 827(f);
- Reletter and amend subdivision (c) of the rule in light of the removal of subdivision (b);
- Change references to “juvenile court record” in subdivision (c) to “juvenile case file” to be consistent with the rest of the rule. Effective 2009, this language was changed throughout the rule except in subdivision (c) which was inadvertently omitted³;
- Revise and reletter subdivision (d)(1)(C) of the rule to require notice to a child only when the child is 10 years of age or older, in conformity with sections 290.1 through 295;
- Revise and reletter subdivision (f) of the rule to remove language that is duplicative of section 828; and
- Delete subdivision (g) of the rule, which is duplicative of section 827(b)(2).

These revisions will make the rule consistent with, but not duplicative of, statutes and remove confusion.

Alternatives Considered

The committee and forum considered taking no action at this time. However, as discussed above, rule 5.552 as currently drafted is inconsistent with statutory law. The inconsistency has caused confusion and results in unnecessary court motions and notices, which is an inefficient use of judicial and party resources. The committee and forum also considered whether to leave in the language that is duplicative of statutory law, as some commentators have observed that it helps

² See Welf. & Inst. Code, §§ 290.1–295.

³ See page 6 of item A36 on the Judicial Council meeting agenda from October 24, 2008 available at: <http://www.courts.ca.gov/documents/102408itema36.pdf>

explain and clarify the statutory requirements that are otherwise confusing. The committee and forum seek comments on this option.

Implementation Requirements, Costs, and Operational Impacts

No implementation requirements or operational impacts are expected. To the extent any costs are associated with the rule revisions, it is anticipated that they will result in cost savings by avoiding unnecessary motions and notices.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee and forum are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Given the complexity of Welfare and Institutions Code section 827, would practitioners prefer that the rule retain the existing language in subdivisions (b), (f), and (g) even if it is duplicative of the statutory language?

The advisory committee and forum also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would courts require in order to implement this proposal? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would an effective date six months from Judicial Council approval of this proposal provide sufficient time for implementation?
- How well would this proposal work in small courts? Large courts?

Attachments and Links

1. Proposed amendments to Cal. Rules of Court, rule 5.552, at pages 4–7

Rule 5.552 of the California Rules of Court would be amended, effective January 1, 2018, to read:

1 **Title 5. Family and Juvenile Rules**

2
3 **Division 3. Juvenile Rules**

4
5 **Chapter 3. General Conduct of Juvenile Court Proceedings**

6
7 **Rule 5.552. Confidentiality of records (§§ 827, 828)**

8
9 **(a) *****

10
11 **~~(b) — General provisions~~**

12
13 ~~(1) — The following individuals and entities may inspect, receive, and copy the~~
14 ~~juvenile case file without an order of the juvenile court:~~

15
16 ~~(A) — Court personnel;~~

17
18 ~~(B) — The district attorney, a city attorney, or a city prosecutor authorized to~~
19 ~~prosecute criminal or juvenile cases under the law;~~

20
21 ~~(C) — The child who is the subject of the proceeding;~~

22
23 ~~(D) — The child's parents;~~

24
25 ~~(E) — The child's guardians;~~

26
27 ~~(F) — The attorneys for the parties, including any trial court or appellate~~
28 ~~attorney representing a party in the juvenile proceeding or related~~
29 ~~appellate proceeding;~~

30
31 ~~(G) — Judges, referees, other hearing officers, probation officers, and law~~
32 ~~enforcement officers who are actively participating in criminal or~~
33 ~~juvenile proceedings involving the child;~~

34
35 ~~(H) — The county counsel, city attorney, or any other attorney representing~~
36 ~~the petitioning agency in a dependency action;~~

37
38 ~~(I) — Members of child protective agencies as defined in Penal Code section~~
39 ~~11165.9; and~~

40
41 ~~(J) — The California Department of Social Services in order to carry out its~~
42 ~~duty to oversee and monitor county child welfare agencies, children in~~
43 ~~foster care or receiving foster care assistance, and out-of-state~~
44 ~~placements.~~
45

Rule 5.552 of the California Rules of Court would be amended, effective January 1, 2018, to read:

- 1 ~~(2) The following individuals and entities may inspect the juvenile case file~~
2 ~~without a court order and may receive a copy of the juvenile case file~~
3 ~~pursuant to a court order:~~
4
5 ~~(A) All persons and entities listed in Welfare and Institutions Code sections~~
6 ~~827 and 828 who are not listed in (b)(1) above; and~~
7
8 ~~(B) An Indian child's tribal representative if the tribe has intervened in the~~
9 ~~child's case.~~
10
11 ~~(3) Authorization for any other person or entity to inspect, obtain, or copy~~
12 ~~juvenile case files may be ordered only by the juvenile court presiding judge~~
13 ~~or a judicial officer of the juvenile court.~~
14
15 ~~(4) Juvenile case files may not be obtained or inspected by civil or criminal~~
16 ~~subpoena.~~
17
18 ~~(5) When a petition is sustained for any offense listed in section 676, the~~
19 ~~charging petition, the minutes of the proceeding, and the orders of~~
20 ~~adjudication and disposition that are contained in the juvenile case file must~~
21 ~~be available for public inspection, unless the court has prohibited disclosure~~
22 ~~of those records under that section.~~
23
24

25 **(e)(b) Petition**

26
27 Juvenile case files may only be obtained or inspected in accordance with sections
28 827 and 828. They may not be obtained or inspected by civil or criminal subpoena.
29 With the exception of those persons permitted to inspect juvenile case files ~~court~~
30 ~~records~~ without court authorization under sections 827 and 828, every person or
31 agency seeking to inspect or obtain juvenile case files ~~court records~~ must petition
32 the court for authorization using *Petition for Disclosure of Juvenile Case File* (form
33 JV-570).

- 34
35 (1) The specific ~~records~~files sought must be identified based on knowledge,
36 information, and belief that such records exist and are relevant to the purpose
37 for which they are being sought.
38
39 (2) Petitioner must describe in detail the reasons the ~~records~~files are being sought
40 and their relevancy to the proceeding or purpose for which petitioner wishes
41 to inspect or obtain the records.
42

43 **(d)(c) Notice of petition for disclosure**

- 44
45 (1) ***
46

Rule 5.552 of the California Rules of Court would be amended, effective January 1, 2018, to read:

1 (A)-(B) ***

2 (C) The child if the child is 10 years of age or older;

3
4 (D)-(I) ***

5
6 (2) ***

7
8 (3) If the petitioner does not know the identity or address of any of the parties in
9 ~~(d)~~(c)(1) above, the clerk must:

10
11 (A)-(B) ***

12
13 (4) ***

14
15 **(e)(d) Procedure**

16
17 (1) ***

18
19 (2) If petitioner shows good cause, the court may set a hearing. The clerk must
20 notice the hearing to the persons and entities listed in ~~(d)~~(c)(1) above.

21
22 (3)-(8) ***

23
24 **(f)(e) Reports of law enforcement agencies (§ 828)**

25
26 ~~Except for records sealed under section 389 or 781, or Penal Code section 1203.45,~~
27 ~~information gathered and retained by a law enforcement agency regarding the~~
28 ~~taking of a child into custody may be disclosed without court authorization to~~
29 ~~another law enforcement agency, including a school district police or security~~
30 ~~department, or to any person or agency that has a legitimate need for the~~
31 ~~information for the purposes of official disposition of a case.~~

32
33 ~~(1) If the law enforcement agency retaining the report is notified under section~~
34 ~~1155 that the child has escaped from a secure detention facility, the agency~~
35 ~~must release the name of the child and any descriptive information on~~
36 ~~specific request by any agency or individual whose attempts to apprehend the~~
37 ~~child will be assisted by the information requested.~~

38
39 ~~(2) In the absence of a specific request, the law enforcement agency retaining the~~
40 ~~report may release information about a child reported to have escaped from a~~
41 ~~secure detention facility if the agency determines that the information is~~
42 ~~necessary to assist in the apprehension of the child or the protection of~~
43 ~~members of the public from substantial physical harm.~~

44
45 ~~(3) Except as authorized under section 828, all others seeking to inspect or obtain~~
46 ~~such reports information gathered and retained by a law enforcement agency~~

Rule 5.552 of the California Rules of Court would be amended, effective January 1, 2018, to read:

1 regarding the taking of a child into custody must petition the juvenile court
2 for authorization, using *Petition to Obtain Report of Law Enforcement*
3 *Agency* (form JV-575).

4
5 **(g) — School notification**

6
7 ~~When a child enrolled in a public school is found to have committed one of the~~
8 ~~offenses described in section 827(b)(2), the court must provide written notice of the~~
9 ~~offense and the disposition to the superintendent of the school district within seven~~
10 ~~days. The superintendent must disseminate information to the principal of the~~
11 ~~school the child attends, and the principal may disseminate information to any~~
12 ~~teacher or administrator for the purposes of the rehabilitation of the child or the~~
13 ~~protection of other students and staff.~~

14
15 **~~(h)~~(f) Other applicable statutes**

16
17 Under no circumstances must this rule or any section of it be interpreted to permit
18 access to or release of ~~records~~files protected under any other federal or state law,
19 including Penal Code section 11165 et seq., except as provided in those statutes, or
20 to limit access to or release of records permitted under any other federal or state
21 statute, including Government Code section 13968.
22

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
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INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Family Law: Transfers of Title IV-D Child Support Cases Between State and Tribal Court	Please Review and provide comments by April 28, 2017
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 5.372	January 1, 2018
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Ann Gilmour, Attorney 415-865-4207 ann.gilmour@jud.ca.gov
Hon. Jerilyn L. Borack, Cochair Hon. Mark A. Juhas, Cochair	
Tribal Court–State Court Forum Hon. Abby Abinanti, Cochair Hon. Dennis M. Perluss, Cochair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee (committee) and the Tribal Court-State Court Forum (forum) propose amendments to rule 5.372 governing discretionary transfer of title IV-D child support cases from the state courts to tribal courts in cases of concurrent jurisdiction. The amendments would allow transfers from the tribal court to the state court, clarify the contents and procedures for motions to transfer, and modify the factors and procedures for ruling on motions to transfer. These proposed amendments are based on suggestions received from those involved in transfers between the state courts in Humboldt and Del Norte Counties and the Yurok Tribal Court.

Background

The Judicial Council adopted California Rules of Court, rule 5.372, effective January 1, 2014, in response to the need for consistent procedures for determining the orderly transfer of title IV-D child support cases from the state court to the tribal court when there is concurrent subject matter jurisdiction.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA),¹ as amended by the Balanced Budget Act of 1997,² authorized the direct federal funding of tribal child support programs. Before the passage of PRWORA, tribal members seeking child support program services only had the option of applying to state title IV-D programs for assistance in establishing and enforcing child support orders. After the enactment of PRWORA, a number of tribes located outside of California applied for and received federal funding to develop tribal title IV-D child support programs. The first tribe located in California to receive federal funding for a tribal title IV-D child support program was the Yurok Tribe.

The Yurok Tribe began receiving grant funding from the federal Office of Child Support Enforcement for startup planning for a tribal child support program on August 1, 2011. The Yurok Tribe had comprehensive direct services available by August 1, 2013. The beginning of title IV-D funding for tribal child support programs created the need for a statewide rule of court to aid in the orderly transfer of appropriate cases from the state court to the tribal court. Rule 5.372 was adopted to meet this need. While the Yurok Tribe is the first tribe located in California to begin a federally funded child support program, rule 5.372 was drafted in anticipation that other tribes may develop such programs in the future.

Since implementation of rule 5.372 on January 1, 2014, over 40 cases have been considered for transfer between the state courts in Humboldt and Del Norte Counties and the Yurok Tribal Court. The Yurok Tribe intends to seek transfer of cases currently under the jurisdiction of state court in the following counties: Lake, Mendocino, Shasta, Siskiyou, and Trinity. In addition, at least one other tribe located in Southern California is expected to soon begin handling title IV-D child support cases.

Representatives of the state Department of Child Support Services, local county child support agencies, the tribal child support program, the tribal court, the state courts, and Judicial Council staff met to review the case transfer procedures at a cross-court educational exchange on October 26, 2016. Based on the experience with the transfers that have taken place so far, the participants made a number of suggestions to improve the transfer process, including amendments to rule 5.372 to streamline the process, reduce confusion, and ensure consistency and efficient use of court resources.

The Proposal

This proposal would amend rule 5.372 to address the suggestions made by those involved in the transfers that have taken place to date.

¹ Pub.L. No. 104-193 (Aug. 21, 1996) 110 Stat. 2105.

² Pub.L. No. 105-33 (Aug. 5, 1997) 111 Stat. 251.

Allowing transfers to state courts

- Amending the title and subdivision (a) to clarify that a title IV-D child support case may be transferred between tribal and state courts in both directions. The prior rule had only envisioned a title IV-D child support case being transferred from the state court to the tribal court. However, the goal is to ensure that a title IV-D child support case will be in the jurisdiction (tribal or state) that is best able to serve the family and protect the best interests of the child. As a family's circumstances change, a case that may have initially been best served by tribal court jurisdiction may transition to one that is best served by state court jurisdiction. The Full Faith and Credit for Child Support Orders Act³ mandates full faith and credit for child support orders between tribal and state courts, thereby contemplating movement in either direction. The mutual recognition of child support orders issued by a tribal or state court has aided the ability of these orders to be transferred from an issuing court to another court for effective enforcement of those orders;
- Adding new subdivision (i), which describes the state court procedure when a tribal court with concurrent jurisdiction decides it is in the child's best interest for the case to be heard in state court; and
- Revising subdivision (h) to add the exception in new subdivision (i), which authorizes the filing of a motion to transfer a case back to state court when a tribal court determines that it is not in the best interest of the child or the parties to retain jurisdiction.

Clarifying the contents and procedures for motions to transfer.

Amending subdivision (e) to:

- Allow the state court to suggest transfer to tribal court on its own motion should circumstances suggest to the court that tribal court jurisdiction may be in the child's best interest;
- Require that certain information be included in the motion to transfer to tribal court. This information is fundamental to the court's determination of concurrent jurisdiction;
- Specify the forms of evidence that the court may rely on when making its ruling on a transfer motion;
- Recognize a presumption of tribal court jurisdiction if the child involved in the case is a tribal member or eligible for tribal membership. This is consistent with legal principles that generally recognize tribal subject matter jurisdiction over children who are members or eligible for membership in the tribe;⁴
- Specify the time limit within which any objection to the transfer to tribal court must be brought; and

³ 28 U.S.C. § 1738(B).

⁴ *Williams v. Lee* (1959) 358 U.S. 217; *Sanders v. Robinson* (9th Cir. 1988) 864 F.2d 630; *State v. Central Council of Tlingit and Haida Indian Tribes of Alaska* (Alaska 2016) 371 P.3d 255; 25 U.S.C. § 1911.

- Provide that the objecting party has the burden of proof to establish that there is good cause not to transfer the matter to tribal court. This is consistent with state implementation of the Indian Child Welfare Act of 1978 (ICWA);⁵

Modifying the factors and procedures for ruling on motions to transfer.

Amending subdivision (f) to:

- Remove some of the factors to be considered in making a determination to transfer to tribal court. The original list of factors was drawn from a Wisconsin rule that governs the transfer of general civil matters where there is concurrent tribal and state court jurisdiction. Not all of those factors were relevant to the consideration of the more specific title IV-D child support case type. In particular, the nature of the action, the interests of the parties, and whether state or tribal law will apply are all the same in these child support cases. The inclusion of these on the list of factors to be considered was confusing and an inefficient use of court resources;
- Specify that the court may not consider the perceived adequacy of the tribal justice system in determining whether to transfer the case. This is consistent with state and federal law under the ICWA;⁶ and
- Permit the state court judge to contact the tribal court judge to resolve procedural issues consistent with procedures contained in the Uniform Child Custody Jurisdiction and Enforcement Act and the Tribal Court Civil Money Judgment Act.⁷

Alternatives Considered

The forum and committee considered taking no action at this time; however, it was decided that amending the rule now, based on the experience of existing users, would prevent the perpetuation of problems in additional counties and facilitate the transfer process as more tribes begin operating their title IV-D programs.

Implementation Requirements, Costs, and Operational Impacts

The forum and committee do not believe that there will be any costs associated with this proposal. In fact, to the extent that the proposal streamlines the process for these transfers it will reduce costs and court time.

⁵ 25 U.S.C. § 1901 et seq.; see Welf. & Inst. Code, § 305.5(c)(4).

⁶ See Welf. & Inst. Code, § 305.5(c)(3); 25 C.F.R. § 23.118(c)(5) (2016).

⁷ See Fam. Code, § 3410; Code Civ. Proc., § 1740.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee [or other proponent] is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the courts require in order to implement this proposal? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would an effective date six months from Judicial Council approval of this proposal provide sufficient time for implementation?
- How well would this proposal work in small courts? Large courts?

Attachments and Links

1. Proposed amendments to Cal. Rules of Court, rule 5.372, at pages 6–8

Rule 5.372 of the California Rules of Court would be amended, effective January 1, 2018, to read:

Title 5. Family and Juvenile Rules

Division 1. Family Rules

Chapter 10. Government Child Support Cases (Title IV-D Support Cases)

Rule 5.372. Transfer of title IV-D cases between ~~to~~ a tribal court and state court

(a) Purpose

This rule is intended to define the procedure for transfer of title IV-D child support cases ~~from~~ between a California superior court ~~to~~ and a tribal court.

(b)–(d) * * *

(e) Determination of concurrent jurisdiction by a superior court

(1) The superior court may, on its own motion or on the motion of any party and after notice to the parties of their right to object, transfer a child support and custody provision of an action in which the state is providing services under ~~California~~ Family Code section 17400 to a tribal court, as defined in (a). This provision applies to both prejudgment and postjudgment cases.

(2) The motion for transfer to a tribal court must include the following information:

- (A) Whether the child is a tribal member or eligible for tribal membership;
- (B) Whether one or both of the child’s parents is a tribal member or eligible for tribal membership;
- (C) Whether one or both of the child’s parents lives on tribal lands or in tribal housing, works for the tribe, or receives tribal benefits;
- (D) Whether there are other children of the obligor subject to child support obligations;
- (E) Any other factor supporting the child’s or parents’ connection to the tribe.

1 (3) When ruling on a motion to transfer, the superior court must first make a
2 threshold determination that concurrent jurisdiction exists. Evidence to
3 support this determination may include:

4
5 (A) Evidence contained within the motion for transfer;

6
7 (B) Evidence agreed to by stipulation of the parties; and

8
9 (C) Other evidence submitted by the parties or by the tribe.

10
11 The court may request that the tribal child support agency or the tribal court
12 submit information concerning the tribe's jurisdiction.

13
14 (4) There is a presumption of concurrent jurisdiction if the child is a tribal
15 member or eligible for tribal membership. If concurrent jurisdiction is found
16 to exist, the transfer to tribal court will occur unless a party has objected ~~in a~~
17 ~~timely manner~~ within 20 days after service of notice. On the filing of a timely
18 objection to the transfer, the superior court must conduct a hearing on the
19 record considering all the relevant factors set forth in (f). The objecting party
20 has the burden of proof to establish good cause not to transfer to tribal court.

21
22 **(f) Evidentiary considerations**

23
24 (1) In making a determination on the application for case transfer, the superior
25 court must consider:

26
27 (1) ~~The nature of the action;~~

28
29 (2) ~~The interests of the parties;~~

30
31 (A) The identities of the parties;

32
33 (B) The convenience ~~of~~ to the parties and witnesses;

34
35 (5) ~~Whether state or tribal law will apply;~~

36
37 (C) The remedy available in the superior court or tribal court; and

38
39 (D) Any other factors deemed necessary by the superior court.

40
41 (2) In making a determination on the application for case transfer, the superior
42 court may not consider the perceived adequacy of tribal justice systems.

1 (3) The superior court may, after notice to all parties, attempt to resolve any
2 procedural issues by contacting the tribal court concerning a motion to
3 transfer. The superior court must allow the parties to participate in, and must
4 prepare a record of, any communication made with the tribal court judge.
5

6 **(g) Order on request to transfer**
7

8 If the superior court denies the request for transfer, the court must state on the
9 record the basis for denying the request. If the superior court grants the request for
10 transfer, it must issue a final order on the request to transfer including a
11 determination of whether concurrent jurisdiction exists.
12

13 **(h) Proceedings after order granting transfer**
14

15 Once the superior court has granted the application to transfer, and has received
16 confirmation that the tribal court has accepted jurisdiction, the superior court clerk
17 must deliver a copy of the entire file, including all pleadings and orders, to the clerk
18 of the tribal court. With the exception of a filing by a tribal court as described by
19 subdivision (i) of this rule, the superior court may not accept any further filings in
20 the state court action in relation to the issues of child support and custody that were
21 transferred to the tribal court.
22

23 **(i) Transfer of proceedings from tribal court**
24

25 (1) If a tribal court determines that it is not in the best interest of the child or the
26 parties for the tribal court to retain jurisdiction of a child support case, the
27 tribe may, upon noticed motion to all parties and the state child support
28 agency, file a motion to transfer the case to the jurisdiction of the superior
29 court along with copies of the tribal court's order transferring jurisdiction and
30 the entire file.
31

32 (2) The superior court must notify the tribal court upon receipt of the materials
33 and the date scheduled for the hearing of the motion to transfer.
34

35 (3) If the superior court has concurrent jurisdiction it may not reject the case.
36
37

SESSION 2:
Partnership with the
California Social Work Education
Center (CalSWEC)



CaISWEC

California Social Work Education Center

Created in 1990, the California Social Work Education Center (CaISWEC) is a consortium of the state's 22 accredited social work graduate schools, all 58 county departments of social service and local mental health departments, the California Department of Social Services (CDSS), the California Chapter of the National Association of Social Workers, the County Welfare Directors Association (CWDA) of California, the County Behavioral Health Directors Association of California, and foundations. It is the nation's largest coalition of its kind working together to provide professional education, student support, in-service training, and workforce evaluation research—all directed toward developing effective, culturally competent public service delivery to the people of California.

CaISWEC's Goals

- Preparing a diverse group of social workers for careers in the human services, with special emphasis on the child welfare, mental health, and aging fields
- Defining and operationalizing a continuum of social work education and training
- Engaging in evaluation, research, and dissemination of best practices in social work

CaISWEC, a unit of the School of Social Welfare at the University of California, Berkeley, operates the Title IV-E Stipend Program, Regional Training Academy (RTA) Coordination Project, Integrated Behavioral Health Program (IBH), and Aging Initiative (AI). In collaboration with its partners, it works to develop a diverse and qualified workforce for the fields of child welfare, behavioral health, and aging; enhance skills among public and contract agency staff to serve diverse populations in California; and contribute to knowledge in these systems. CaISWEC provides stipends to schools of social work for Bachelor's- and Master's-level students; develops curricular tools for faculty and in-service trainers; coordinates statewide in-service training activities; and studies the effectiveness of its programs.

TITLE IV-E CHILD WELFARE TRAINING PROGRAM

The Title IV-E Child Welfare Training Program offers financial support to graduate social work students preparing for the field of public child welfare. The project offers financial support of \$37,000 (\$18,500 for each of two years) to graduate social work students who plan to practice in child welfare services. Upon graduation, the students work in a county child welfare service for a time equal to the period for which they received support.

With academic year 2004–2005, CaISWEC initiated the Title IV-E project leading to a BASW in child welfare. This program, which offers a total of \$15,000 of educational support in the final year of study, is available at California State University campuses at Chico, Fresno, Humboldt, Long Beach, San Bernardino, and San Diego. Graduates from the BASW program are expected to complete two years of service in a county child welfare agency for one year of support received.

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School of Social Welfare
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MAJOR ACTIVITIES

- **Curriculum Competencies:** The Board of Directors Curriculum Committee is responsible for evaluating curricula in social work education and developing new curricular materials and resources for use by social work programs throughout the state. The committee spearheaded the latest (2010) revision of the CalSWEC Curriculum Competencies for Public Child Welfare, created to assist graduate schools of social work in preparing child welfare MSW students for their future careers in public child welfare. The Title IV-E BASW program has an undergraduate version of the Curriculum Competencies, which were revised in 2009 to reflect generalist child welfare practice at the professional entry level. The California Public Child Welfare Competencies, as they are also known, serve as a model for collaborative curriculum development across the nation and are revised periodically to reflect current practice.
- **Title IV-E Field Model:** To strengthen field instruction as a learning tool, CalSWEC launched the Field Instruction Initiative in 2010 to develop structures that support consistent, high-quality field experiences for students in the Title IV-E Child Welfare Training Program. During fall 2012–summer 2013 CalSWEC engaged a variety of stakeholders in an iterative feedback gathering process to develop a cohesive and integrated model for field education in the Title IV-E program. Called the Title IV-E Field Model, it consists of: (1) mutual partnership activities, (2) field instructor recruitment and support, (3) placement selection and process, and (4) field curriculum.
- **The Pathway Program:** This program is intended to address the educational needs of social workers in county child welfare agencies in remote, rural, and/or not in proximity to a university that has a B.A.S.W./M.S.W. program. The program, which began in late 2008, is a distance-education program designed to support students at different phases of their education, from the B.A in social work to the M.S.W. It supports the student via tuition assistance, travel reimbursement, hands-on agency instruction, in-field supervision, and web-based course work to provide access to social work education at most levels of educational need. The current focus of the program is on rural social work practice.
- **Best Practice and Curriculum Building:** The Board of Directors Research and Development Committee engages in, sponsors, and directs curriculum development efforts based on empirical study pertaining to social work education and social work practice in public social services. The committee funds efforts that (1) advance the knowledge of best practice in public child welfare and (2) contribute curriculum for graduate social work education and agency staff development. Joint agency-school program development and evaluation activities are encouraged to support CalSWEC's efforts to enhance social workers' sense of efficacy while involving students and staff in improving the current child welfare system.
- **Title IV-E MSW Program Evaluation:** Currently the MSW program is evaluated in two ways. The first is through the Curriculum Snapshot in which the Title IV-E participant schools provide information about field placements, school-agency partnerships, the classroom, field curriculum, and competency delivery. Participant schools are asked to identify gaps in the curriculum delivery and program design. The second way is the New Graduate Survey, which asks graduates who have begun working to provide information about the program's effectiveness in preparing them for work in public child welfare.
- **CalSWEC Career Path Study:** Title IV-E MSW graduates are surveyed three years and five years post graduation. Survey items pertain to graduates' work experiences and whether or not they continued to work in child welfare. The survey is designed to understand the factors that influence their decision and their corresponding career paths.
- **CalSWEC Workforce Study:** CalSWEC periodically surveys the public child welfare workforce to

determine the extent to which the state is meeting its needs and requirements for Master’s-level social workers among workers and supervisors. In 2011 it conducted the Agency Staffing Characteristics Survey to collect data on vacancies, caseload structure and size, and

turnover, among other factors. CalSWEC also conducted the Individual Worker Survey to obtain a detailed perspective on the workforce, including demographics, program assignments, and experience level.

REGIONAL TRAINING ACADEMY (RTA) COORDINATION PROJECT

The Regional Training Academy Coordination (RTA) Project is a statewide collaborative for in-service training and continuing professional education of public child welfare staff. Six coordinating partners—the four regional training academies, the University Consortium for Children and Families/Los Angeles County Training Division, and the Resource Center for Family-Focused Practice—provide a continuum of training and professional education to county staff across the state. This coordinated delivery model reduces duplication of training, increases consistency, promotes professionalism and competency, and supports child welfare staff retention in California’s 58 counties.

MAJOR ACTIVITIES

- **Statewide coordination of curriculum development and standardization:** CalSWEC coordinates the development and implementation of statewide Common Core training for line workers and supervisors, as mandated by the federal Child and Federal Services Review (CFSR). It co-chairs the Statewide Training and Education Committee (STEC) with CDSS to address statewide training issues. The project also works to integrate best practices and research into curricula for use across the state, and to integrate pre-service B.A.S.W./M.S.W. education with in-service training. CalSWEC convenes strategic planning sessions for the coordinating partners to further this work.
- **Statewide training evaluation:** A national leader in the evaluation of human services training, CalSWEC has developed the Framework for Training Evaluation, a common approach to evaluation that can be used to evaluate child welfare training across the state. The project also annually sponsors the National Human Services Training Evaluation Symposium, a unique forum for training evaluators from around the country to present and discuss training evaluation issues. In 2003 CalSWEC received a Special Recognition Award from the National Staff Development and Training Association for this symposium. CalSWEC also leads the evaluation of the statewide Common Core training for line workers and for supervisors.
- **Fairness and equity in child welfare services training:** This training works to focus statewide efforts on developing and implementing effective training strategies to address inequities in the child welfare system based on race, ethnicity, economic status, or region. The Symposium on Fairness and Equity Issues in Child Welfare Training brings together training professionals from around the state to strategize about this vital issue. CalSWEC has also co-sponsored statewide events aimed at county leadership and provides funds for its coordinating partners to work on this issue regionally.
- **Evidence-Based Practice:** The pace of change in California’s child welfare system has accelerated rapidly with the advent of the CFSR process, the implementation of AB 636, and the continuing movement toward evidence-based and evidence-informed practice. CalSWEC has been at the center of these changes, providing leadership and training assistance to move California toward a more evidence-based, child- and family-focused, equitable child welfare system. Working closely with our partners, CalSWEC (with the Child and Family Policy Institute of California [CFPIC]) has developed a statewide child welfare research agenda, sponsored symposia on evidence-based practice, and worked to infuse research and evidence into all statewide curricula.

INTEGRATED BEHAVIORAL HEALTH (IBH) PROGRAM

The Mental Health Services Act (MHSA), enacted in 2004, provides funding for comprehensive changes in the public mental/behavioral health system in California to deliver services that: promote recovery for adults, children, adolescents, and older adults with severe mental illness; provide client-centered, culturally competent, and linguistically accessible services; and promote wellness and reduction of stigma in communities. To accomplish these long-term policy and practice changes, MHSA includes funding to remedy the shortage of qualified mental/behavioral health staff, and equip providers in public mental/behavioral health agencies with new skills.

CalSWEC's Mental Health Program (MHP) was launched in 2005 with funding from the MHSA Workforce Education and Training component. Effective July 1, 2016, the MHP became the Integrated Behavioral Health (IBH) Program. As with the former MHP, the IBH Program contracts with the California Office of Statewide Health Planning and Development to distribute MHSA funds each year to schools of social work to provide stipends and specialized training for students who are interested in a career in the public mental/behavioral health system. Effective July 1, 2016, this is called the MHSA Stipend Program. The IBH Program has developed and implemented a set of curriculum competencies for public mental/behavioral health services that the schools include in their academic and field program for these students. Process and outcome studies also have been implemented to track programmatic progress and challenges.

MAJOR ACTIVITIES

- **Stipends:** The IBH Program, through its partner schools, distributes stipends of \$18,500 each for full-time students in their final year of graduate education, or \$9,250 each for part-time MSW students in an advanced year of study. Each school selects MHSA Stipend Program recipients, provides opportunities through classroom or fieldwork curricula for IBH Program students to learn core competencies grounded in mental health recovery principles, and supports students in launching new careers in the mental/behavioral health system after graduation. Upon graduation, stipend-recipients must complete a service obligation in a county-operated or county-contracted mental/behavioral health setting.
- **Curriculum Competencies:** The competencies guide the development of recovery-oriented curricula; each of the schools addresses these in foundation and advanced academic coursework and field placements. Five modules on the following topics also have been developed for faculty to use: Recovery, Stigma, and Discrimination; Co-Occurring Disorders; Specialized Interventions for Children and Transition Age Youth with Severe Emotional Disabilities; Specialized Mental Health Interventions with Older Adults; and Child Welfare—Mental Health Collaboration.
- **Technical Assistance:** CalSWEC offers consultation and technical assistance to interested faculty, field instructors, mental health workforce development coordinators, and others. The purpose of these activities is to strengthen the capacity of schools of social work to train new professionals for the mental/behavioral health systems in California.
- **Program Evaluation:** CalSWEC tracks student demographic information and post-graduate employment outcomes. Studies also have been conducted on methods used for curricula implementation and how well the specialized curricula prepare graduates to work in the mental/behavioral health systems. Summary reports are available on the CalSWEC website.

AGING INITIATIVE

In 2004, CalSWEC launched the Aging Initiative (AI) in recognition of the need to recruit and train a competent geriatric workforce to support older Californians and their families. As the state's population of older adults grows, geriatric specialists in the state's social services, health, public mental health, and alcohol and drug systems are needed. A primary AI goal is the development of a geriatrically trained social work workforce who may serve in a variety of service delivery systems, sharing knowledge and skills across systems in order to achieve better outcomes for geriatric clients.

AI has initiated the development of a social work workforce with specialized training in geriatric issues through the creation of a set of competencies for MSW students, offering training to strengthen the capacity of workers across multiple systems to recognize and address the multifaceted needs of older adults and their families, and working collaboratively in work groups and task forces to bring an aging perspective on policy and practice decisions that impact this population.

MAJOR ACTIVITIES

- **Communications:** Collaboration will continue with Merced County, which led the effort to develop a recruitment video for Aging and Adult Services social workers. Next will be the dissemination of this video and others, as well as other related communications products.
- **Funding:** Defining the role of social workers and workforce development for them in the medical, dual eligible, and Coordinated Care Initiative environments is underway. Related to this will be the development of a collaboration between CalSWEC and selected counties involved in Cal MediConnect to test a social work service delivery model and the funding for students to prepare for work in Coordinated Care roles.
- **Curriculum Development:** This includes content and perspectives that address cross-disciplinary, cost-saving services that keep elders in their home and community; promote a better quality of life; and identify behavior health models. To serve rural needs, distance learning and regional models of curriculum dissemination would be incorporated. Additionally, CalSWEC's website now includes a page dedicated to gerontology and Aging Curriculum and Training Resources.
- **Best Practices Research and Dissemination:** As curriculum is identified, the Aging Initiative and Adult Services Committee will help to identify best practice interests. Additionally, CalSWEC will host a series of webinars for agencies and university faculty to disseminate information on curriculum products and best practices.

CalSWEC RESOURCE LIBRARIES

- **California Child Welfare Resource Library**

This resource library provides web access to all of CalSWEC's Research Based Curriculum Development projects as well as other child welfare curriculum and educational resources, at cost, to agencies, schools of social work, organizations, and individuals throughout the United States as well as internationally. The California Child Welfare Resource Library, the central dissemination point for CalSWEC child welfare curriculum development products, is administered by and located at the Department of Social Work at California State University, Long Beach. Its database includes nearly 4,000 items. Information about the California Child Welfare Resource Library and its materials are accessible at <http://www.csulb.edu/projects/ccwrl/>.

- **The Integrated Behavioral Health Program Curriculum Resources Library**

The Curriculum Resources website for the Integrated Behavioral Health Program (IBH) is hosted at Loma Linda University Department of Social Work and Social Ecology. It includes documents relevant to mental health curriculum development and implementation from a variety of international, national, and statewide sources. The website can be accessed at <http://www.llu.edu/behavioral-health/socialwork/calswecmentalhealth.page>.

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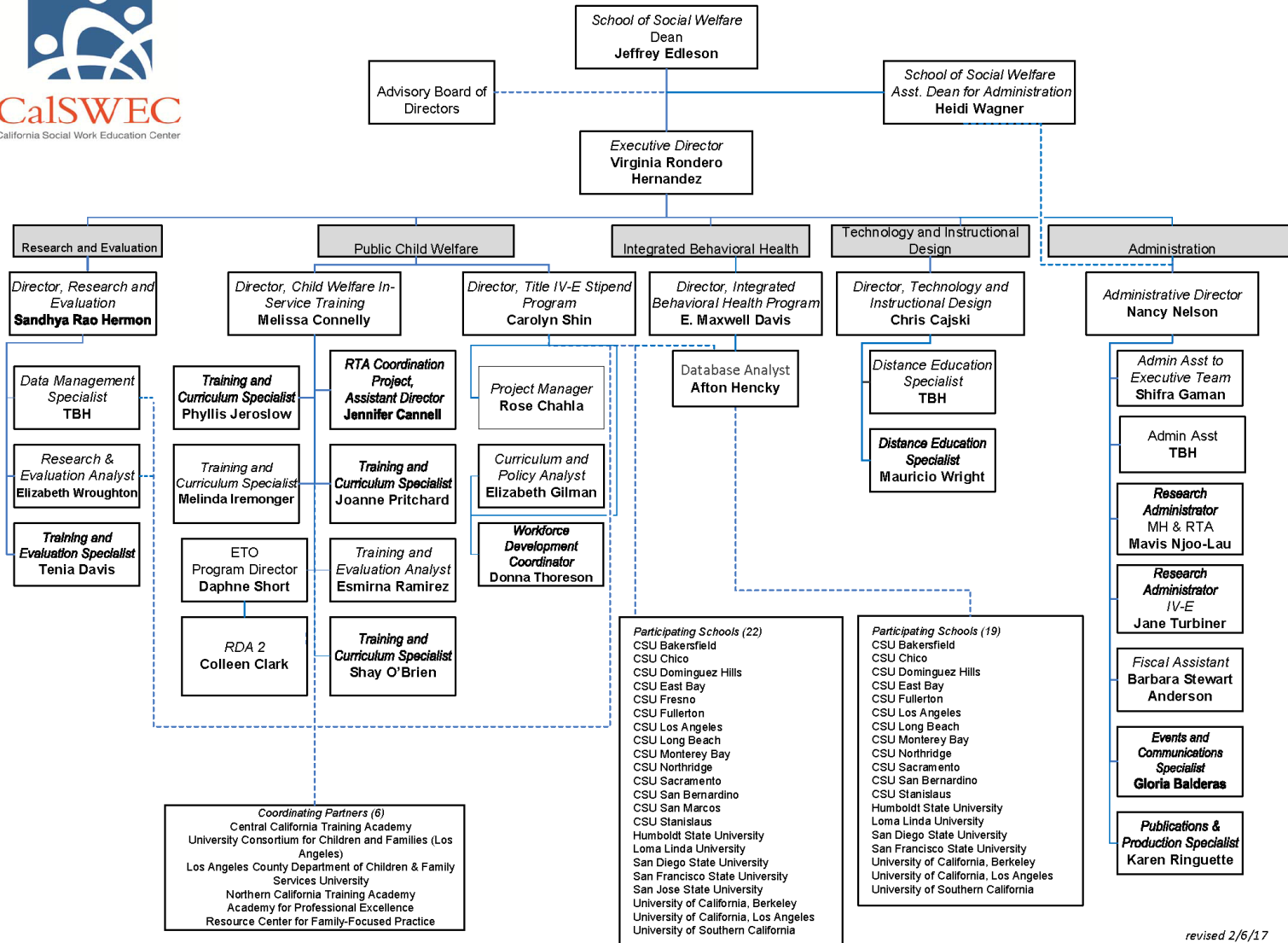
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CALIFORNIA CHILD WELFARE RESOURCE LIBRARY

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California Social Work Education Center



revised 2/6/17



IMPORTANCE of SERVE

The issue of social welfare is central to tribal communities. Indigenous Peoples in the U.S (Native American, Native Alaskan and Native Hawaiian) have been the target of federal and state policies and services, including the forced removal of children from their families to boarding schools where they were forced to give up their culture, and many suffered mental, physical and sexual abuse. The continuing impact of Federal policies has effectively decimated healthy tribal communities and families, leaving behind high rates of chronic disease, alcoholism and family violence.

In addition, although the Indian Child Welfare Act was enacted in 1978, Native American children continue to be removed from their family homes at a higher rate than other groups. For example, “Nearly 10,000 Native American/Native Alaskan children are in the nation’s foster care system today, at a rate that is disproportionately higher than that for non-Indian children.”¹

Meanwhile, schools of social work have generally failed to provide nontribal social workers with the knowledge and skills needed to respond and work respectfully with Tribal families and communities. And there is a need for Native American social workers who can bring to their practice an understanding to historic trauma, tribal systems, and the challenges Native American families and communities face in their efforts to maintain and improve their physical and mental health.

The need in social work is two-fold²:

- 1) There is a need for all social work students, regardless of racial or ethnic identification, to have the knowledge and skills to work competently with Native Americans;
- 2) There is a need to improve the pipeline for Native American students and faculty into social work.

There are 110 federally recognized tribes in the State of California not including state recognized or unrecognized tribes. In Southern California, two of the nation’s largest populations of Native Americans reside in Los Angeles and San Diego. However, Indigenous students have been disenfranchised and neglected by the state’s education system. There are disparities in educational attainment at all levels (high school, undergraduate and graduate), which then leads to a lack of Native Americans serving in faculty and educator roles. In California, only 40% of Native American high school graduates fulfill UC/CSU entrance requirements which are 13% lower than the state average³.

¹ (Cross, et al., 2009)

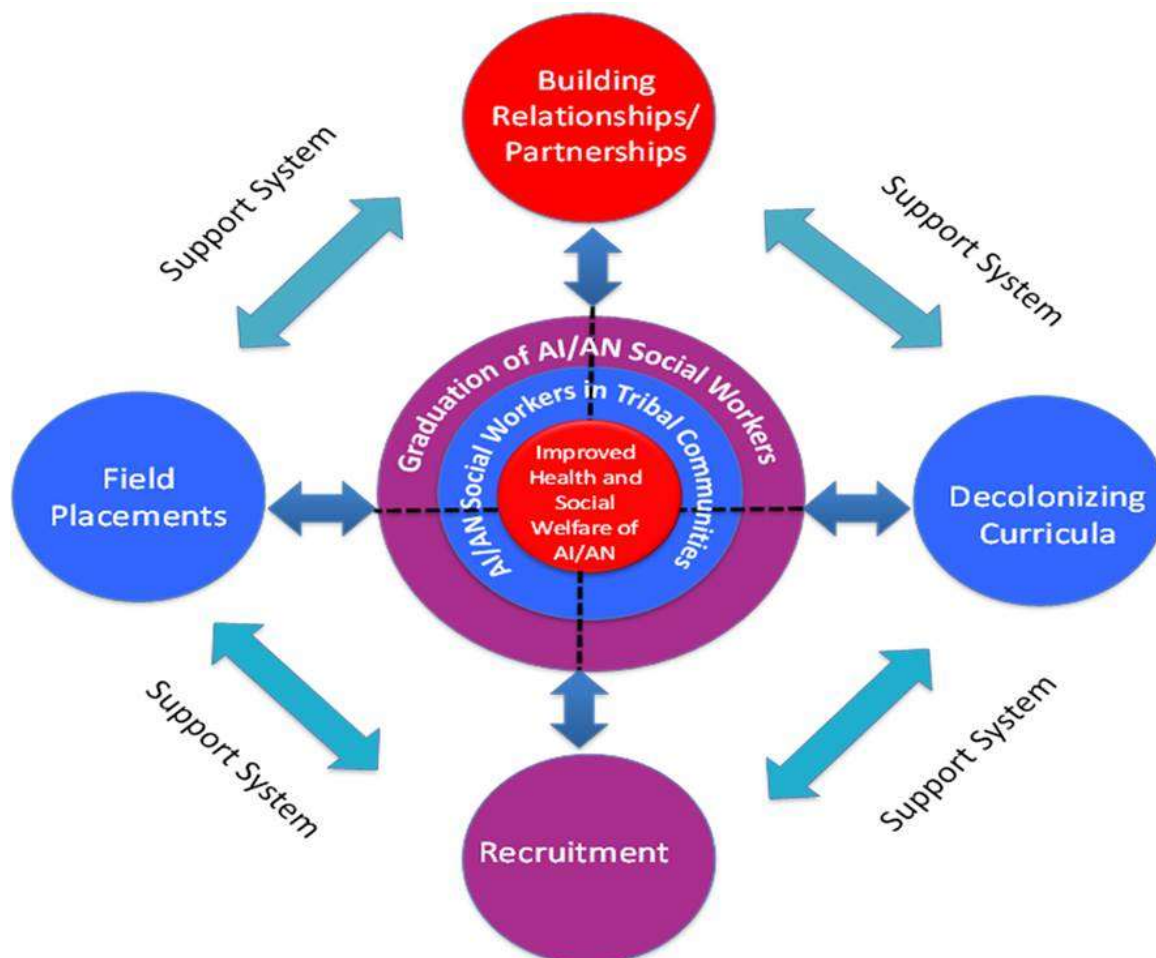
² (Cross, et al., 2009)

³ (Proudfit & San Juan, 2012)

For successful recruitment and retention of Indigenous (Native American/Native Alaskan) students and preparation of non-Native students, it is essential that all the following areas (*Building Relationships/Partnerships, Decolonizing Curricula, Recruitment, and Field Placements*) are in place to provide an adequate and appropriate support system (See Back Page).

- a) **Building Relationships/Partnerships** are essential to address and overcome the history of education institution-driven historic trauma and to gain Tribal community support for Native youth pursuing social work degrees.
- b) **Decolonizing or Culturally-Responsive Curricula** is absent in most schools of social work with the net effect that Native and non-Native social workers are not being trained to meet the needs of the indigenous populations in California and across the nation.
- c) **Recruitment** is needed to promote social work as a career and create pathways for Native to apply and be accepted into schools of social work
- d) **Native American/Native Alaskan Field Placements** are needed to allow Native students work with their communities creating both integration of academic learning and on-the-job experience, and reinforcing the connection to community that is important for Indigenous student retention.

SERVE MODEL



FACT SHEET

SERVE: Indigenous Social Workers for Change



OVERVIEW:

SERVE aims to recruit Indigenous students (Native American/Native Alaskan) into the Title IV-E Stipend Program with a specialization in Public Child Welfare.

Title IV-E is part of the Social Security Act managed by the Administration for Children and Families of the U.S. Department of Health and Human Services, and provides stipends for the following students with a specialization in Public Child Welfare:

- MSW full-time students, a stipend of \$18,500 per year;
- BASW full-time students, a stipend of \$15,000 for the final year of study

NOTE: Native students are able to payback their service working with a tribe or tribal agency/organization & are able to go anywhere in the U.S. to find work.

SERVE VISION:

Envisions Tribal sovereign nations and Indigenous communities as sustainable healthy communities that use healing interventions to provide empowerment, mentorship, and leadership development; to promote cultural preservation and appreciation of Indigenous cultures by recognizing and supporting Tribal sovereignty, and protecting cultural rights and identity of Indigenous peoples.

SERVE MISSION:

Committed to full equity, justice, well-being, and cultural preservation of American Indian/Alaska Native children and families by increasing the numbers of Indigenous social work graduates; fostering inclusive leadership development; developing partnerships between Tribal sovereign nations, indigenous communities, and other stakeholders; and implementing decolonizing social work curricula to reflect community-based, culturally appropriate Indigenous values and the promotion of Indigenous sovereignty and self-determination.

SERVE OBJECTIVES:

1. To increase the enrollment and graduation of Native Americans from social work programs offering Bachelor's of Social Work (BASW) and Master's of Social Work (MSW) degrees in California;
2. To increase the number of opportunities for all MSW students to complete field placements at Tribal agencies, or agencies that work extensively with Tribal populations;
3. To increase partnerships between Tribal organizations and advocacy groups and schools of social work throughout California;
4. To increase capacity and curriculum of the CalSWEC-affiliated schools to train social workers with cultural responsiveness directly related to California's Native population.

BACKGROUND:

SERVE was initiated in 1981 at UC Berkeley through the American Indian/Alaskan Native Program in Social Welfare. In 1999, SERVE was adopted by CalSWEC and grew into a statewide effort that operated from California State University, Stanislaus, where it helped to form collaborative working relationships with 67 of 110 California Tribal agencies.

In summer 2011, SERVE was expanded and restructured in an effort to strategically increase statewide outreach and development efforts. It now operates from three distinct locations for the state's Northern, Central, and Southern regions (*See map on page 2*).



FACT SHEET

SERVE: Indigenous Social Workers for Change



Program Regions

Click on a school's name to be taken to its social work department's website



Northern Region

SCHOOLS

CSU Chico
Humboldt State University
Sacramento State University

Central Region

SCHOOLS

CSU Bakersfield
CSU East Bay
CSU Fresno
CSU Monterey Bay
CSU Stanislaus
San Francisco State University
San Jose State University
University of California, Berkeley

Southern Region

SCHOOLS

CSU Dominguez Hills
CSU Fullerton
CSU Long Beach
CSU Los Angeles
CSU Northridge
CSU San Bernardino
Loma Linda University
San Diego State University
University of California, Los Angeles
University of Southern California

SERVE COORDINATORS:

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SERVE MAY ASSIST WITH/TO:

- Interested Indigenous students apply to BASW and MSW programs within California, including Title IV-E Stipend Programs;
- Connect Indigenous students to placements in Tribal agencies, Rancherias, or agencies that work extensively with Tribal populations;
- Establish field placement sites for interns at Tribal agencies, Rancherias and/or child protection service agencies
- Trainings on Native American issues in social welfare and child welfare to universities and child protective agencies.

SERVE MODEL:

For successful recruitment and retention of Indigenous (Native American/Native Alaskan) students and preparation of non-Native students, it is essential that all the following areas (*Building Relationships/Partnerships, Decolonizing Curricula, Recruitment, and Field Placements*) are in place to provide an adequate and appropriate support system for students (*refer to SERVE Model page*).

For more information about SERVE, the Title IV-E Stipend Program, participating schools, and how to apply, please visit <http://calswec.berkeley.edu/>



SESSION 3:

Indian Child Welfare Act (ICWA)

Legislative and Rule Discussion

Quick Reference Sheet for State Court Personnel



U.S. Department of the Interior, Bureau of Indian Affairs
Final Rule: Indian Child Custody Proceedings
25 CFR 23

All Child Custody Proceedings

Inquiry. Ask in every child custody proceeding (emergency, involuntary, and voluntary): “Do you know, or is there a reason to know, the child is an ‘Indian child’ under the Indian Child Welfare Act (ICWA)?”

An “Indian child” is:

- A member of a federally recognized Tribe or
- Eligible for membership in a federally recognized Tribe and has a biological parent who is a member.

Indications of “reason to know” include—

- Anyone, including the child, tells the court the child is an Indian child or there is information indicating the child is an Indian child;
- The domicile or residence of the child or parent/Indian custodian is on a reservation or in an Alaska Native village;
- The child is, or has been, a ward of Tribal court; or
- Either parent or the child has an ID indicating Tribal membership.

Whether a child is an “Indian child” does not consider factors outside the definition, such as:

- Participation of the parents or child in Tribal activities;
- Relationship between the child and his or her parents;
- Whether the parent ever had custody of the child, or
- The child’s blood quantum.

Pending verification. If there is reason to know the child is an Indian child, treat the child as an Indian child, unless and until it is determined on the record that the child is not an “Indian child.”

Verification with Tribe and identification of “Indian child’s Tribe.” Confirm, on the record, that the agency or other party used due diligence to identify and work with all of the Tribes of which there is reason to know the child may be a member (or eligible), to verify whether the child is a member **or** a biological parent is a member and the child is eligible. Determine **the Indian child’s Tribe** for purposes of the Act.

Determine jurisdiction. The Indian child’s Tribe has exclusive jurisdiction over the case if the Indian child’s domicile or residence is on a reservation where the Tribe exercises exclusive jurisdiction over child-custody proceedings **or** the child is a ward of Tribal court. A parent or Indian custodian and the Indian child’s Tribe may request a transfer of a foster-care or termination-of-parental-rights (TPR) proceeding to Tribal jurisdiction, at any stage and at any time, orally on the record or in writing. Upon such a request, the court **must** transfer unless:

- Either parent objects to such transfer;
- The Tribal court declines the transfer; or
- Good cause exists for denying the transfer.

The reasons for denial must be on the record.

A determination that good cause exists to deny transfer may **not** include the considerations listed at § 23.118(c).

Placement preferences. ICWA’s placement preferences apply in any preadoptive, adoptive, or foster-care placement (voluntary or involuntary) of an Indian child.¹ Or, if the Indian child’s Tribe has established, by resolution, a different order of preference, the Tribe’s placement preferences apply instead. Deviations from the placement preferences are permitted only for *good cause*. Good cause must be on the record and should be shown by clear and convincing evidence and be based only on one or more of the considerations listed at § 23.132(c).

A placement may not depart from the preferences:

- Based on the socioeconomic status of any placement relative to another
- Based solely on ordinary bonding or attachment that flowed from time spent in a non-preferred placement that was made in violation of ICWA.

¹ See ICWA’s placement preferences at 25 U.S.C. 1915 or 25 CFR §§ 23.129-131.

Involuntary Proceedings

Notice. The record must include proof that clear and understandable notice was provided to the parents (and/or Indian custodian, if any) and Tribe, by registered or certified mail, return receipt requested, of the involuntary proceeding. No foster-care-placement or TPR proceeding may be held until at least **10 days after receipt** of the notice of that particular proceeding (with extensions allowed at option of parent or Tribe).

Active Efforts. Before ordering an involuntary foster care placement or TPR, the court must conclude that active efforts have been made to prevent the breakup of the Indian family and those efforts have been unsuccessful. Active efforts must be documented in detail in the record.

Active efforts are affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with his or her family. See § 23.2 for the more expansive definition and examples.

Standards of Evidence.

Foster-care placement and TPR may be ordered only if there is:

- **Clear and convincing evidence** (for foster-care placement) or **evidence beyond a reasonable doubt** (for TPR),
- Including the testimony of qualified expert witness(es),
- That the child's continued custody by the child's parent or Indian custodian is likely to result in "serious emotional or physical damage" to the child.

The evidence must show a *causal relationship* between the particular conditions in the home and the likelihood that continued custody of the child will result in serious emotional or physical damage to the particular child who is the subject of the child-custody proceeding.

Without a causal relationship, evidence that shows only the existence of community or family poverty, isolation, single parenthood, custodian age, crowded or inadequate housing, substance abuse, or nonconforming social behavior does not by itself meet the standard of evidence.

The *qualified expert witness* must be

qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child, and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's Tribe. The qualified expert witness may not be the social worker regularly assigned to the Indian child.

Emergency Proceedings

An emergency removal or placement is any removal/placement of an Indian child under State law without the full suite of ICWA protections, regardless of the label used for the removal or placement; the emergency removal or placement must terminate immediately when the removal or placement is no longer necessary to prevent "imminent physical damage or harm" to the child and **cannot last more than 30 days** unless the court makes the determinations at § 23.113(e). An emergency proceeding can be terminated by one or more of the following actions:

- (1) Initiation of a child-custody proceeding subject to the provisions of ICWA;
- (2) Transfer of the child to the jurisdiction of the appropriate Indian Tribe; or
- (3) Restoring the child to the parent or Indian custodian.

Voluntary Proceedings

A voluntary proceeding must be truly voluntary (of the parent or custodian's free will, without a threat of removal by a State agency). The provisions summarized in "All Child Custody Proceedings" on p. 1 of this guide (including, e.g., placement preferences) apply. In addition, the court must ensure the safeguards for the parent or custodian's consent and withdrawal of consent are followed. See §§ 23.125 - 23.128.

Implementing the Federal ICWA Regulations in California
 Topics for discussion at Tribal Court-State Court Forum Meeting
 February 16, 2017

Topic	Issue	Means to address
Inquiry Regs. 23.107 Guideline B.1 WIC 224.3 Rule 5.481 (a)	For the most part California law regarding inquiry is consistent with or sets a higher standard than the new ICWA regulations. The one exception is that rule 23.107 requires inquiry at the beginning of each “proceeding” rather than each case as is the practice in California.	Since there is no direct conflict, the inconsistency can be addressed through training, or perhaps revision to the rule of court (5.481).
Notice ICWA 1912 (a); Regs. 23.11; Guideline D; WIC 224.2 Rule 5.481 (b)	Again, California law is generally consistent or sets a higher standard. Like inquiry, the duty of notice attaches at each “proceeding”, not just once per case. (see Guideline D.1) So main change is requirement to send notice at TPR, adoptive stages, etc. not just at front end.	Is amendment to WIC 224.2(b) required? Alternatively training and rule change.
Emergency ICWA 1922; Regs. 23.113- WIC 305.5 (f)	No actual conflict, but need to clarify that detention hearing is emergency proceeding if ICWA foster care placement standards not met. Emergency proceeding must meet procedural and evidentiary standards. Cannot last longer than 30 days.	Training and perhaps rule
“Proceedings” ICWA 1903(1) Regs. 23.2 (defs of “hearing and “child custody Proceeding”	No actual conflict, but need to clarify which California hearings fall into which category of ICWA proceeding, and which ICWA rights attach at each hearing.	Training.
Active Efforts ICWA 1912(d) Regs. 23.2 (definition) & 23.120 Guideline E WIC 361.7(b)	No actual conflict, however regulations and guidelines are more expansive and clearer than California law.	Training.
Voluntary/Involuntary ICWA 1903(1)(i); 1912;1913 Regs. 23.2 (definitions; 23.124-23.128	No actual conflict, but may require changes in practice.	Training – particularly around use of guardianships, etc. in lieu of CPS removal.

<p>Guidelines I WIC 224.1</p>		
<p>Jurisdiction ICWA 1911 Reg. 23.110 WIC 305.5</p>	<p>If tribe has exclusive jurisdiction, federal law requires dismissal (absent emergency). California law discusses transfer rather than dismissal.</p>	<p>Is a legislative change to 305.5 required? Revise rule 5.483(a) which discusses transfer when child under exclusive jurisdiction</p>
<p>Transfer ICWA 1911 Reg. 23.115-119 Guidelines F.3-F.6 WIC 305.5</p>	<p>Regulations clarify the right to transfer attaches to each “proceeding”, not case. Only actual conflict is with factors that can justify good cause not to transfer. One factor (no tribal court) removed from regulations but still in CA statute (WIC 305.5 (c)(1)(B)) and Rule 5.483(d)(1)(B). Reg 23.118 removes factors set out in WIC 305.5(c)(1)(2) (A)-(D) and adds four factors which may not be considered which are not in Ca statute.</p>	<p>Is legislative change required?</p>
<p>Placement Preferences ICWA 1915 Regs. 23.129-23.132 Guideline H WIC 361.31</p>	<p>In some respects California law sets a higher standard (applies to emergency removals & requires consideration of prevailing social and cultural standards), but regulations bar consideration of factors such as socioeconomic status of placements and bonding.</p>	<p>Training sufficient to address</p>
<p>Qualified Expert Witness ICWA 1912(e) & (f) Reg. 23.121 & 23.122 Guideline G.2 WIC 224.6</p>	<p>There is no conflict. However, guideline G.2 does give additional guidance.</p>	<p>New regs and guidelines can be addressed through training.</p>

WORKING LUNCH:
Tribal Justice Documentary and
Panel Discussion



*For Immediate Release
Press Contact: Maureen McFadden
(805)689.5053/mcmpr101@gmail.com*

TRIBAL JUSTICE Documentary Centers on Two Women Judges Bringing Restorative Justice Back to Their Tribes

World Premiere Set for the Santa Barbara International Film Festival

“There’s a winner and loser when you walk out of state court, straight up. That isn’t okay here; it does not resolve the issue.” Abby Abinanti, Chief Judge of the Yurok Tribe

(Santa Barbara, CA) **Tribal Justice** follows two extraordinary Native American women, both chief judges for their tribes’ courts. Abby Abinanti, Chief Judge of the Yurok Tribe on the northwest coast of California, and Claudette White, Chief Judge of the Quechan Tribe in the southeastern desert near Yuma, Arizona, are creating innovative justice systems that focus on restoring rather than punishing offenders in order to keep tribal members out of prison, prevent children from being taken from their communities, and stop the school-to-prison pipeline that plagues their young people. Mainstream courts are looking to Native American models to reform their own legal systems, as can be seen in Collaborative Courts across the country and in our own Veterans Treatment Court here in Santa Barbara County.

Four years in the making, Anne Makepeace’s newest film will have its world premiere at the **Santa Barbara International Film Festival on Sunday, February 5th at 7:00pm** at the **Lobero Theater**. This will be her fifth film to screen at SBIFF. Her second screening is on **Monday, February 6 @ 11:40am at the Metro Four Theatre**. Both Judges Abinanti and White will be at the February 5th premiere, and Makepeace is thrilled to be returning to her former hometown of Santa Barbara for the film’s two screenings.

Makepeace met the judges in 2013, when she attended a California Tribal Court-State Court Forum meeting with Executive Producer Ruth Cowan. They were both immediately awed and moved by the judges’ dedication, passion, humor and determination to bring traditional forms of justice back to their people. A few months later, Makepeace and her cinematographer Barney Broomfield were shooting in the judges’ courtrooms and in their lives, a process continued over the next three years. The documentary is now hot off the press, having just been finished a few weeks ago. It will air on PBS’s premiere documentary series *POV* late in 2017.

“Tribal legal systems ... hold up an example to the nation about the possibilities of alternative dispute resolution. Their new methods have much to offer to the tribal communities, and much to teach the other court systems operating in the United States.” The Honorable Sandra Day O’Connor.

Casting is half the battle with any film, and the filmmakers were fortunate to meet these two extraordinary women. Abby is a fierce, lean, white-haired elder who has dedicated her life to humane justice. In the 1970s, she became the first Native American woman lawyer in California, and practiced law in state courts, returning home in 2007 to become the Chief Judge of the Yurok Tribe, the largest tribe in California. Claudette represents a new generation of Native American lawyers and judges who are ‘re-visioning’ justice. The documentary follows several cases both in and out of their courts. When we meet Taos Proctor in Abby’s court, he is facing a third strike conviction at age 26 for drug related felonies. We follow Taos, a boisterous bear of a man, over two years as Abby and her staff help him complete court programs and rebuild his life. A thousand miles south, Claudette invokes the Indian Child Welfare Act to reunite a nine-year-old boy with his family. Meanwhile her teenage nephew, Isaac, faces two felony charges for breaking into cars. Unlike Taos’ case, Isaac’s case cannot be transferred to tribal court, and his story in the film does not end well.

Restorative Justice has become a buzzword in mainstream legal circles, with many in the field advocating a shift from our punitive justice system to one addressing root problems. Native American tribes have been doing this since time immemorial, resolving disputes by finding ways for offenders to right wrongs and restore balance to the community. Abby and Claudette are reaching back to these methods to address the myriad problems on their reservations today – poverty, alcohol and drug abuse, the breakdown of families, loss of cultural connection - and to heal their communities from within, one case at a time. They are having a high percentage of success, as exemplified in two of the cases profiled in **Tribal Justice**. Mainstream courts are taking notice; collaborative courts from Brooklyn to Boulder are looking to Native American justice systems as models for transforming new restorative justice methods in their courts. As Abby remarks in the film, “There’s a winner and loser when you walk out of state court, straight up. That isn’t okay here. It does not resolve the issue.”

To most Americans, indigenous people in this country are invisible, an overlooked minority seen as having vanished into history or stereotyped as venal casino owners or drunken derelicts. Few people are aware of the complexities of contemporary Indian life, or of the innovative work being done in tribal courts. By showing two strong Native women judges creating new forms of justice based on their traditions, Makepeace hopes her documentary will inspire indigenous communities here and around the world with renewed determination to provide culturally appropriate forms of justice to their people. She also hopes mainstream courts, law schools, and other law related organizations will see the potential for their own practices to shift away from process and punishment oriented methods to more personal, humane, and effective ways of dealing with offenders. As Supreme Court Justice Sandra Day O’Connor has written, the innovative methods of tribal courts “have much to offer to the tribal communities, and much to teach the other court systems operating in the United States.”

Tribal Justice was funded by: the MacArthur Foundation, the National Endowment for the Humanities, California Humanities, Vision Maker Media, the Corporation for Public Broadcasting, and private foundations and individuals.



*For Immediate Release
Press Contact: Maureen McFadden
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LISTING: SPECIAL SCREENINGS

JUST THE FACTS

WHO: Anne Makepeace and Makepeace Productions Present

**WHAT: TRIBAL JUSTICE
World Premiere Documentary**

WHEN & WHERE:

**Sunday, February 5 @ 7pm World Premiere
Lobero Theatre, 33 E. Canon Perdido St., Santa Barbara, CA 93101**

**Monday, February 6 @ 11:40am
Metro Four, 618 State St., Santa Barbara, CA 93101**

TICKETS: <http://sbiff.org/product-category/2017-sbiff-passes/>

SYNOPSIS: Award-winning filmmaker's newest documentary is a close look at two female judges from California's indigenous tribes on opposite ends of the state, each with the goal of restoring justice to their people. Native American tribes have been doing this since time immemorial, resolving disputes by finding ways for offenders to right wrongs and restore balance to the community. This feature-length doc just got added to the PBS Series *POV* schedule set to air later in 2017.

Film Team: Anne Makepeace, producer/director;



**NOTES FOR THE
MEDIA ONLY:**

- **IMAGES AVAILABLE UPON REQUEST** - Poster and production stills
- Red Carpet Arrivals for the filmmaker and two Judges @6:30pm
Abby Abinanti, Chief Judge of the Yurok Tribe & Claudette White, Chief Judge of the Quechan Tribe and Anne Makepeace, filmmaker
- The Lobero Theatre is a 600-seat venue and a best bet for patrons wanting to see this doc.
- Q&A will follow the Sunday screening with both judges and filmmaker.
- Metro Four; Theatre 3 has a much smaller capacity. Filmmaker will do brief Q&A after Monday screening.

For more information on the film and the filmmaker please visit:

<http://makepeaceproductions.com/TJ/>

TV OUTLETS: 15, 30 and 60 -second clips available upon request also four-minute promo.

To set up an interview with the filmmaker please give me a call, send me an e-mail or text. Mo McFadden at 805.689.5053 or mcmpr101@gmail.com

Thanks in advance for your kind consideration.

POV

MONDAYS 10 PM
ON PBS (check local listings)

DOCUMENTARIES WITH
A POINT OF VIEW



American Documentary, Inc.
amdoc.org

American Documentary is a leading nonprofit media organization dedicated to creating, identifying and presenting contemporary nonfiction stories that express opinions and perspectives rarely featured in mainstream media. As a catalyst for public culture, American Documentary goes “beyond the broadcast,” partnering with television and radio stations, community groups and local and national organizations to spark conversation about the issues we present on television and online. Screenings, panel discussions and public events are designed to trigger action, from dialogue and feedback to educational opportunities and community participation.



Produced by American Documentary, Inc., POV is public television’s premier showcase for nonfiction films. The series airs Mondays at 10 p.m. on PBS from June to September, with primetime specials during the year. Since 1988, POV has been the home for the world’s boldest contemporary filmmakers, celebrating intriguing personal stories that spark conversation and inspire action. Always an innovator, POV discovers fresh new voices and creates interactive experiences that shine a light on social issues and elevate the art of storytelling. With our documentary broadcasts, original online programming and dynamic community engagement campaigns, we are committed to supporting films that capture the imagination and present diverse perspectives.

POV films have won 36 Emmy® Awards, 19 George Foster Peabody Awards, 12 Alfred I. duPont-Columbia University Awards, three Academy Awards®, the first-ever George Polk Documentary Film Award and the Prix Italia. The POV series has been honored with a Special News & Documentary Emmy Award for Excellence in Television Documentary Filmmaking, three IDA Awards for Best Curated Series and the National Association of Latino Independent Producers Award for Corporate Commitment to Diversity.

POV Community Engagement & Education pbs.org/pov/engage

POV’s Community Engagement & Education team works with educators, community organizations and PBS stations to present more than 650 free screenings across the country every year. In addition, we distribute free discussion guides and standards-aligned lesson plans for each POV film. With our community partners, we inspire dialogue around the most important social issues of our time. @povengage

POV Digital pbs.org/pov

Since 1994, POV Digital has driven new storytelling initiatives and interactive production for POV. The department created PBS’s first program website and its first web-based documentary (POV’s Borders) and has won major awards, including a Webby Award (and six nominations) and an Online News Association Award. POV Digital continues to explore the future of independent nonfiction media through its digital productions and the POV Digital Lab, where media makers and technologists collaborate to reinvent storytelling forms. @povdocs

 **America ReFramed**
worldchannel.org/programs/america-reframed/

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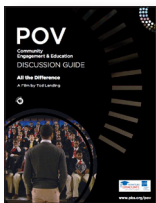
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SESSION 4:
Tribal/State/Court Data Exchanges in
Child Welfare Cases

December 07, 2016

Statement on Information Sharing, Data Standardization and Interoperability

This document affirms the strong support of the California Child Welfare Council (“Council”) for enhanced data sharing across service systems to improve decision making as well as the provision, integration, and quality of services for children, families and caregivers. The Council recognizes the importance of legal safeguards for protecting the confidentiality of children, families, and caregivers served by state and local agencies, the courts, and other public and private entities. These entities deal with extremely personal and sensitive information in attempting to provide an array of services and resources to meet the complex needs clients. Notwithstanding this complexity and the vast number of programs and services involved, the Council declares that children, families, and caregivers are best served in a system that allows for fully informed decisions and timely access to information to meet the needs of this population.

The importance of accessing and appropriately using standard information sharing frameworks, models, and quality data elements cannot be overstated. Standardization provides a basis for interoperable systems and reusable data exchanges that advance an effective integrated system of care. It ensures children and families are assisted by a child welfare system that is properly informed, guided and striving for ongoing improvement through timely access to comprehensive information.

The Council envisions an inclusive, integrated, interoperable state and local information technology strategy that leverages and supports:

- Improving access to effective and quality care provided to children and families by holistically addressing their needs (e.g., “no wrong door”);
- Engaging youth and families in care and planning;
- Enhancing connections among comprehensive health services (including mental, behavioral, substance abuse, etc.), human services, education services, the courts, and probation;
- Reducing cost of operation and maintenance for all levels of government and the private sector through sharing reusable data exchanges and information technology resources;
- and
- Providing greater availability of timely program data for evaluating and improving program performance.

The Council further envisions comprehensive information linkages within workplaces dedicated to routine and systemic sharing of child welfare information across jurisdictional boundaries while ensuring confidentiality and legal protections with respect to personal and sensitive information.

The Council enthusiastically affirms its continued commitment to the exchange of child welfare information between federal and state government, tribes and tribal organizations, local public entities, the courts, and authorized child-serving private entities. The Council is further committed to research and analysis of data to achieve continuous quality improvement across systems— further enhancing informed public policy decision making.

The Council encourages the California Department of Social Services and the Office of Systems Integration in the development of the new Child Welfare Digital Services system as they develop an agile software platform to maximize integration between the California Department of Social Services, County Child Welfare Services, County Resource Family Home Approval, and Tribal Child Welfare. The Council further encourages, to the extent practicable, that the Child Welfare Digital Services system develop and support bi-directional data exchanges that are capable of sharing child welfare data with courts, education, health, mental health, probation and other child welfare information systems in accordance with U.S. Department of Health and Human Services, Administration on Children, Youth & Families (ACYF) standards for a Comprehensive Child Welfare Information System (CCWIS) to better serve clients, inform decision-making and improve outcomes.

The California Department of Social Services has implemented Child and Family Services Reviews and the state's Child Welfare Outcomes and Accountability System in accordance with California Welfare and Institutions Code, Section 10601.2, which specify federal outcome measures for courts and the child welfare system. The Council joins the California Blue Ribbon Commission for Children in Foster Care in endorsing information technology systems that track these outcome measures and permit appropriate data exchange and maximize the information available regarding how the courts and the child welfare system are serving children and families.

Therefore, the Council urges collaborative and cooperative efforts by federal and state government, local public agencies, the courts, tribes and tribal organizations, and authorized child-serving private entities in undertaking and implementing information sharing initiatives and transforming the way information is shared. The Council also urges these entities to reinforce the central attributes of its information sharing policy: to ensure that child welfare information is shared comprehensively and routinely; to provide information responsive to the needs of each other; and to present that information in forms useful to children, families, and caregivers.

The Council encourages the leadership of all child and family-serving systems to advance the ability to share data across those systems. Furthermore, the Council recommends moving forward aggressively to document, develop, and expand information gathering and sharing capabilities to permit each entity to participate more fully and uniformly in information sharing

efforts and to draw upon existing relationships and agreements whenever possible to lend leadership and assistance to implementation.

The Council recommends and urges all information technology efforts involved in the exchange of information regarding children and families served by the child welfare system to:

- Embrace Open Data by providing open access to public non-confidential child welfare data in accordance with the California Health and Human Service Agency's Open Data Playbook to improve transparency and efficiency of government services;
- Establish a common data element vocabulary, and leverage applicable standards where appropriate, such as the National Information Exchange Model (NIEM);
- Promote the development, sharing, use, and reuse of information technology processes, applications, data structures, and infrastructures required to enable data exchanges, through broader data sharing agreements that extend beyond individual systems and data elements, but and are reciprocal between entire departments for purposes set forth in the agreements;
- Use common and open frameworks and technologies to encourage the development of flexible applications;
- Use interoperable standards developed and maintained by Federal entities and intergovernmental partnerships;
- Use common or uniform confidentiality/privacy agreements consistent with Federal and State laws;
- Employ user-centered design principles and develop processes for continuous, iterative improvement in response to user feedback.

Furthermore, the Council recommends the dynamic use of standardization so the goals of improving care and connections, reducing costs, and providing timely data are achieved over time as policies, practices, and technologies evolve from the changing needs of children, families and caregivers and adapt to the continuous improvements in child welfare services.



Child Welfare Digital Services

Courts Interfaces Specifications

January 2017

Revision History

Revision / Version #	Date of Release	Author	Summary of Changes
V 1.0	9-16-14	Robb Thompson	Consolidated the transactions down to 7
V 1.1	1-12-17	Karen Hanna, Amit Rai, Michael A.	

DRAFT

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DRAFT

1 Introduction

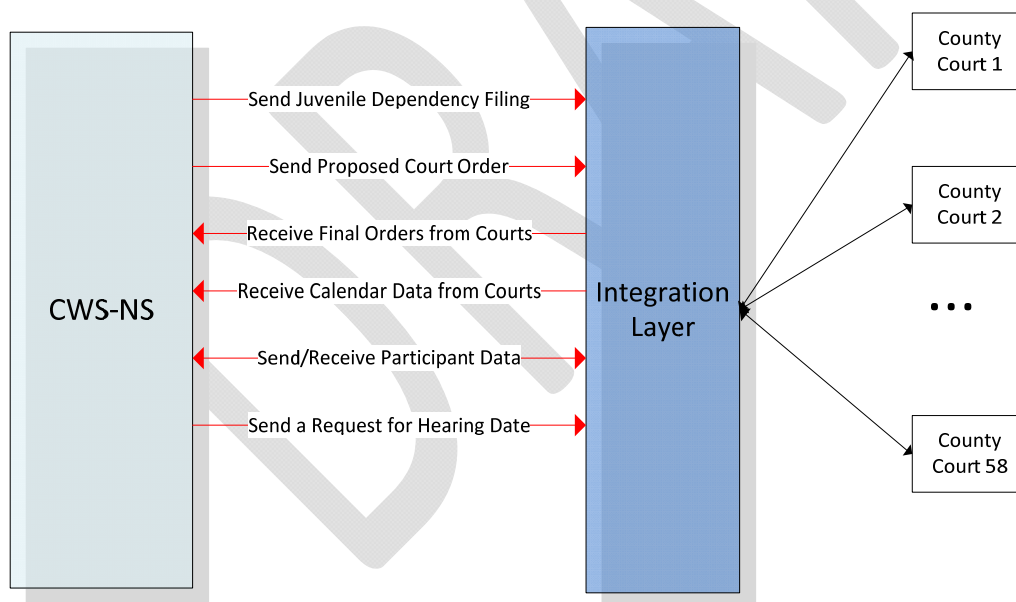
This document addresses each Courts-related business process and the associated business and technical requirements the Courts Interface must meet. Throughout this document, the term “Courts” refers to the county court systems, as a whole. Each of the 58 counties may have a different court system, but the CWS-NS Project specifies one set of technical interface specifications for all counties.

The requirements that follow are written from the CWS-NS perspective: if the business operation originates in CWS-NS, it is considered a “Send”; if it originates in the external county courts system, it is considered a “Receive.”

Throughout the Courts Interface section, there are references to Juvenile Court (JV) forms that the interface supports, a full list of which is provided in the Bidders’ Library. The Bidders’ Library also contains a Use Cases document (Use Cases-Courts.docx) that provides additional interface details.

All interfaces to Courts will need to support both dependency court and delinquency court findings and orders.

Caption: Business Operations Supported by the Courts Interface



The CWS-NS system will provide for the county court systems one technical interface specification for each business operation. While each county court system will need to be individually configured for the physical connection for security purposes, all county court systems will use one set of interfaces.

All of the Courts' interfaces will be new interfaces.

2 Common Requirements

The following requirements are common to all courts interfaces.

Requirements

1. The System shall allow all interfaces to Courts to send and receive electronic signatures.
2. The System shall allow all interfaces to Courts to include required JV forms necessary to complete the court requirements for requested filings. The Bidders' Library contains a list of required JV forms.
3. The System shall allow all interfaces to Courts to include required non-JV form attachments (e.g., scanned documents, mailing receipts) necessary to fulfill the court requirements for requested filings.
4. The System shall associate all inputs from the Courts to a CWS-NS case.
5. The System shall allow all interfaces to Courts to support findings and orders from both dependency court and delinquency court.
6. The System shall allow interface requests and responses from the Courts to be processed asynchronously.

3 Interface Operations

Following section provides details for the proposed operations of the new interface.

3.1 Send Juvenile Dependency Filing

This business process allows a CW worker to send a juvenile dependency filing to the court. CWS receives allegations and conducts investigations that may lead to a substantiated conclusion. The CW worker uses CWS-NS to send a petition and supporting documentation to the court to request that it find that the child falls within the Welfare and Institutions Code 300.

Service Type

New Interface: CWS-NS work with the County Courts to construct this new interface.

Request Sent

- Data elements from the JV 100 through JV 150.
- Case/party identifying information.

-
- Petitioner (agency) identifying information.
 - CW worker identifying information.

Response Received

- Data elements from the JV 100 through JV 150 after modification in hearing.
- Orders after detention hearing.
- Court information.
- Location, department, judicial officer, other contact.
- Attorney information.
- Case/Party Identifying information if updated.
- Related Juvenile Court case Identifier.
- Related Justice Partner Case Identifier.
- Court Documents, if needed.
- Electronic signature.

Requirements

7. The System shall include a Juvenile Dependency Petition Filing interface that allows authorized users to send a juvenile dependency petition to Courts. This will be called the Juvenile Dependency Petition Filing interface.
8. The System shall allow the Juvenile Dependency Petition Filing interface to include forms or attachments to support a juvenile dependency filing.
9. The System shall support at least 6,200 juvenile dependency filing requests per month to Courts.
10. The System shall accept responses from the Juvenile Dependency Petition Filing interface and associate them with the correct CWS-NS case.

3.2 Send Proposed Court Report

This interface allows a CW worker to submit a report containing proposed findings and orders and attachments to the Courts, prior to the hearing. Subsequently, the Courts issue findings and orders after the hearing.

Service Type

New Interface: CWS-NS work with the County Courts to construct this new interface.

Supporting Use Case

Bidders' Library for Use Cases-Courts: Court Receives Proposed Statutory Court Order and Court Issues Final Orders.

Request Sent

- Case Identifying information
- JV forms which include the following functionality:
 - Social Worker Report
 - JV-180 (W&I 388)
 - Notice and Proof of Service
 - Proposed Statutory Court Orders
 - Proposed Non-statutory court orders
 - ICWA forms
 - Adoption forms
- Optional attachments

Response Received

- Acknowledgement of the request

Requirements

11. The System shall include an interface that allows a CW worker to submit proposed findings and orders and attachments to the court prior to a hearing. This interface will be called the Send Proposed Court Order interface.
12. The System shall allow a CW worker to submit JV forms to the Courts using the Send Proposed Court Order interface.
13. The System shall allow the JV forms listed in Appendix B to be sent to and from the Courts, using the Send Proposed Court Order interface.
14. The System shall include the ability for attachments, as required by JV forms, to be sent to and from the Courts, using the Send Proposed Court Order interface.
15. The System shall allow a CW worker to specify (using the Send Proposed Court Order interface) that the request for a Court order is pending, as the request may be modified and filed more than once before an order is made.
16. The System shall process up to 2,000,000 Send Proposed Court Order interface requests per year.
17. The System shall include the ability to send the following ICWA forms to the Courts via the Send Proposed Court Order interface:
 - a. ICWA-010(A) with petition

-
- b. ICWA-020
 - c. ICWA-030
 - d. ICWA-030(A)
18. The System shall generate notices to interested parties, as required by each specific ICWA form, when data is sent and received via the Send Proposed Court Order interface.
 19. The System shall include a Send Proposed Court Order interface that must allow a CW worker to request a change, modification, or setting aside of a court order by filing a JV 180 and any required attachments.
 20. The System shall include a Send Proposed Court Order interface that must allow a CW worker to establish a sibling relationship through the filing of a JV 180 and any required attachments.
 21. The System shall include a Send Proposed Court Order interface that must allow a CW worker to terminate or modify a guardianship through the filing of a JV 180 and any required attachments.
 22. The System shall include a Send Proposed Court Order interface that must allow a CW worker to modify an existing case plan goal through the filing of a JV 180 and any required attachments.
 23. The System shall specify that a hearing may or may not be required as a result of the Send Proposed Court Order interface request.
 24. The System shall allow the JV forms listed in Appendix B to be sent to and from the Courts using Send Proposed Court Order interface.
 25. The System shall include the ability for attachments, as required by JV forms, to be sent to and from the Courts using the Send Proposed Court Order interface.
 26. The System shall allow a CW worker to transfer jurisdiction from juvenile delinquency to juvenile dependency via the Send Proposed Court Order interface.
 27. The System shall allow a CW worker to transfer jurisdiction from juvenile dependency to juvenile delinquency via the Send Proposed Court Order interface.
 28. The System shall allow the CW worker to schedule a Dependency and Delinquency dual status assessment hearing with the Courts via the Send Proposed Court Order interface.
 29. The System shall allow a CW worker to file adoptive placement papers via the Send Proposed Court Order Interface.
 30. The System shall process of 2,000,000 Send Proposed Court Order interface requests per year.

3.3 Receive Orders from Courts

This interface allows the Courts to issues findings and orders after a hearing for which a CW worker submitted a report containing proposed statutory findings, orders, and attachments.

Service Type

New Interface: CWS-NS work with the County Courts to construct this new interface.

Supporting Use Case

Bidders' Library for Use Cases-Courts: Court Receives Proposed Statutory Court Order and Court Issues Final Orders.

Request Received

- Case identifying information
- Minute orders and any other orders after hearing

Response Sent

- Acknowledgement that the court orders were received

Requirements

31. The System shall include an interface that allows the Courts to issue findings and orders after a hearing for which a CW worker submitted proposed findings and orders. This interface will be called the Receive Court Orders interface.
32. The System shall process up to 2,000,000 Receive Court Orders interface requests per year.
33. The System shall allow the Courts to transfer jurisdiction from juvenile delinquency to juvenile dependency via the Receive Court Orders interface.
34. The System shall allow the Courts to transfer jurisdiction from juvenile dependency to juvenile delinquency via the Receive Court Orders interface.
35. The System shall allow the Court to schedule a Dependency and Delinquency dual status assessment hearing with the CW worker via a Courts system interface.
36. The System shall include the ability to receive ICWA the following forms from the Courts via the Receive Final Orders interface:
 - a. ICWA-040
 - b. ICWA-050

c. ICWA-060

37. The System shall generate notices to interested parties, as required by each specific ICWA form, when data is received via the Receive Court Orders interface.
38. The System shall allow the Court to inform a CW worker to perform the investigation and review of the decision to not commence proceedings by submitting the JV215 form via the Receive Court Orders interface.
39. The System shall allow the Courts to notify CWS-NS that adoption forms have been filed by adoptive parents via the Receive Court Orders interface.

3.4 Receive Calendar Data from Courts

This interface allows the courts to send court hearing data to CWS-NS. Calendar data includes case, hearing type, hearing date and time, and hearing location to CWS for all future juvenile dependency hearing dates, dates set, dates modified, dates vacated. This exchange will help CWS meet the federal requirement to maintain hearing data.

Service Type

New Interface: CWS-NS work with the County Courts to construct this new interface. This interface provides CWS-NS business services to the Courts.

Supporting Use Case

Bidders' Library for Use Cases-Courts: CWS-NS Receives Calendar Data from Courts.

Request Received

- Case identifying information
- Hearing participant information
- Judicial officer
- Type of hearing
- Hearing subtype
- Date
- Time
- Reason (for new, modified, continued or vacated hearing)
- Location
- Courtroom

Response Sent

-
- Acknowledgement of Courts calendar request

Requirements

40. The System shall include an interface that allows Courts to send court hearing data to CWS-NS. This interface will be called the Receive Calendar Data interface.
41. The System shall receive court hearing information and associate it with a case for the purpose of tracking hearing dates, times, and associated responsibilities for the CW worker, using the Receive Calendar Data interface.
42. The System shall allow up to 1,000,000 Receive Calendar Data interface requests a year.

3.5 Send Participant Data

This interface allows a CW worker to send and receive changes and deletions to court case participant information for juvenile dependency cases. Changes and deletions to court case participant information are sent by CWS to the court for juvenile dependency cases.

Service Type

New Interface: CWS-NS work with the County Courts to construct this new interface. This interface consumes a Courts business service.

Supporting Use Case

Bidders' Library for Use Cases-Courts: CWS-NS Sends and Receives Participant Data.

Request Sent

- Case identifying information
- Participant information, which includes: Case Party (Person), Client ID, CWS person ID (unique), Name, DOB, Gender, Relationship type to child

Response Received

- Acknowledgement of request received

Requirements

43. The System shall include an interface that allows a CW worker to send additions, changes and deletions to court case participant information for juvenile dependency cases. This interface will be called the Send Participant Data interface.

-
44. The System shall support at least 5000 Send Participant Data interface requests a year.

3.6 Receive Participant Data

This interface allows CWS-NS to receive Additions, changes and deletions to court case participant information for juvenile dependency cases from the courts.

Service Type

New Interface: CWS-NS work with the County Courts to construct this new interface. This interface provides CWS-NS business services to the Courts.

Supporting Use Case

Bidders' Library for Use Cases-Courts: CWS-NS Sends and Receives Participant Data.

Request Received

- Case identifying information
- Participant information for: Child, mother, father(s), caregiver(s), guardian(s), grandparent(s), de facto parents, siblings
- Caseworker, attorney for county, attorney for child, attorney for mother, attorney for father, attorney for other
- Participant information includes: Case Party (Person), Client ID, CWS person ID (unique), Name, DOB, Gender, Relationship type to child

Response Sent

- Acknowledgement of receipt

Requirements

45. The System shall include an interface that allows a CW worker to receive additions, changes and deletions to court case participant information for juvenile dependency cases. This interface will be called the Receive Participant Data interface.
46. The System shall receive case participant change confirmation from the Courts via the Receive Participant Data Interface.
47. The System shall support at least 5000 Receive Participant Data interface requests a year.

3.7 Send a Request for Hearing Date with Recommended Calendar Event Time

CWS requests a hearing date from the court for a hearing. Request can include date and time requested, and will include the court case number. This interface will also support a request for a pre-filing hearing, when no case exists yet, and there is a need for a longer time for notices than 72 hours (as is required with the initial dependency filing).

Service Type

New Interface: CWS-NS work with the County Courts to construct this new interface. This interface consumes a Courts business service.

Supporting Use Case

Bidders' Library for Use Cases-Courts: CWS sends a request for hearing date with recommended calendar event time.

Request Sent

- Case identifying information
- Hearing participant information
- Judicial officer
- Type of hearing
- Hearing subtype
- Date
- Time
- Reason (for new, modified, continued or vacated hearing)
- Location
- Courtroom

Response Received

- Case identifying information
- Approval
- Calendar information
- Denial
- Denial indicator
- Denial reason

Requirements

48. The System shall include an interface that allows a CW worker to send a request to Courts for a hearing date with recommended calendar event time. This interface will be called the Hearing Date Request interface.
49. The System shall allow a CW worker to request a hearing date and time via the CWS-NS Hearing Date Request Interface. If no hearing date and time is requested, the Court can assign one.
50. The System shall allow a CW worker to request a hearing type and hearing subtype.
51. The System shall allow a CW worker to request a reason for the request via the CWS-NS Hearing Date Request Interface, choosing from one of the following: new request, modified request, continued request, or vacated hearing
52. The System shall allow a Court to respond (via the CWS-NS Hearing Date Request Interface) with case identifying information, approval or denial information, and calendar information.
53. The System shall allow Courts to respond that a request for a hearing date was not calendared due to the close of business day being missed.
54. The System shall support 315,000 CWS-NS hearing requests and responses a year via the CWS-NS Hearing Date Request Interface.
55. The System shall include both a synchronous and asynchronous request and response pattern via the CWS-NS Hearing Date Request Interface. This will allow Courts flexibility in how they choose to interact with CWS-NS.
56. The System shall allow a Case Worker to request a hearing date a variable time in the future to allow for time to notice clients and other court participants when using the Hearing Date Request interface.

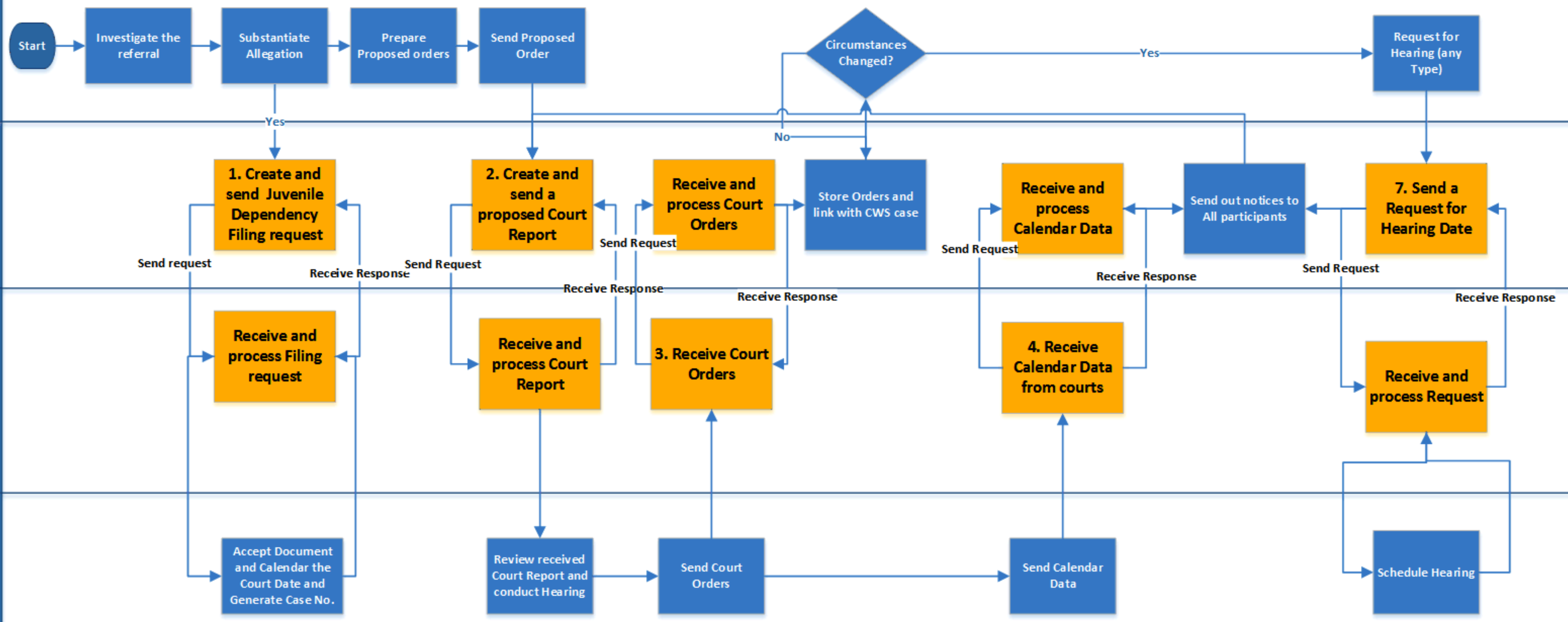
CWS-NS – Courts Interfaces

CWS-NS users

CWS-NS

Courts System

Courts USers





CWDS
Child Welfare Digital Services

Courts Interface Overview

January, 2017

Agenda

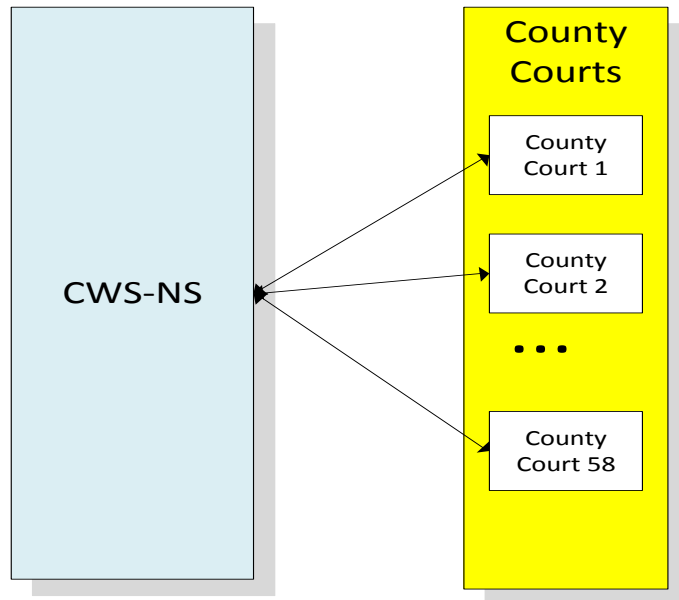
- Summary
- Interface Overview
- Interface Operations
- Advantages of the Interface
- County Court Requirements
- Rollout Options

Summary

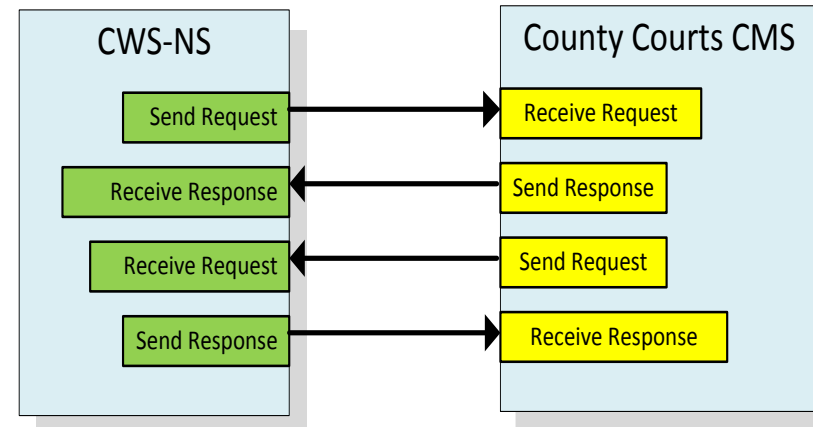
We are building an interface that will ensure quick, comprehensive and clear communication between the Court, County Counsel and the Child Welfare professionals, to share information and direction that leads to safe, permanent homes for children and families.

Interface Overview

CWS-NS Courts Systems Interface



...And zoom in on one Court



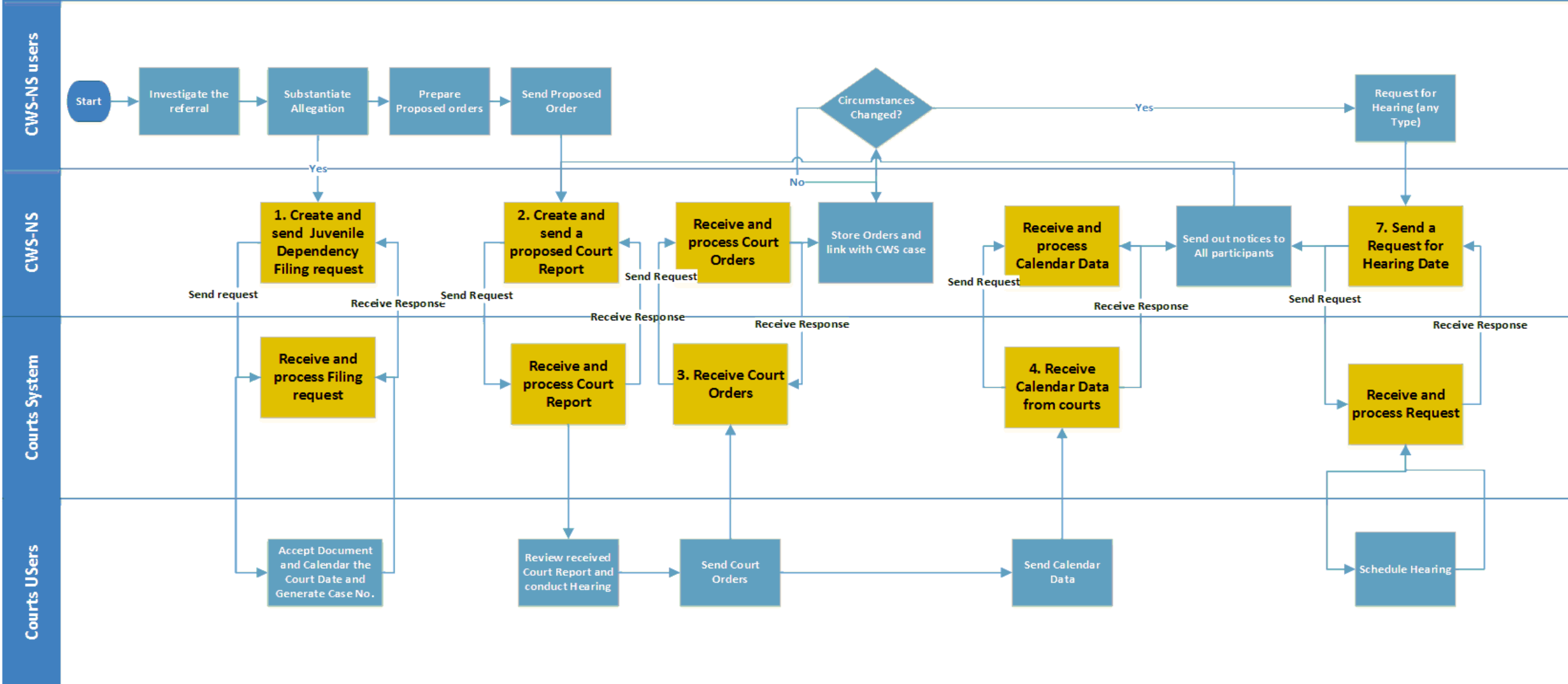
- Can send and receive documents
- Uses modern interface technology (REST, JSON) or can also use legacy (FTP, batch)

Interface Operations

1. Send Juvenile Dependency Filing
2. Send Proposed Court Report
3. Receive Orders from Courts
4. Receive Calendar Data from Courts
5. Send Participant Data
6. Receive Participant Data
7. Send a Request for Hearing Date with Recommended Calendar Event Time

Interface Operations Cont.

CWS-NS – Courts Interfaces



Advantages of the Interface

- Ease of Use and Increase in Data Integrity
- Reduces case timeline length, with clear information and direction
- More Streamlined System that standardizes the process
- Reduces manual work considerably, allowing more time for investigation, case management and social work
- Reduces printing costs, courier/mileage expenses and court continuances, etc.

County Court Requirements

- Counties interested in using the interface should meet the following requirements:
 - Preferably using an automated court system
 - Can identify a SPOC for all future CWS-NS communication and coordination needs
 - Can commit resources to accomplish tasks in accordance with CWS-NS project needs
- CWS-NS will provide a manual courts interface for Counties that don't meet the requirements.

County Court Rollout Options

- Each County Court will require setup and testing.
- The project anticipates that the rollout will be conducted in groups, with an initial group of 4-5 counties to pilot the interface.
- A County Court can choose to either
 - Opt-in for an Automated Courts Interface during one of the rollout groups
 - Choose to stay with using the manual method for sharing data with Court Systems.

SESSION 5:

Judge to Judge Communications in Non-Money Judgment Cases

Session 5: Judge to Judge Communication in Non-Money Judgments Proposed Legislation for Discussion

Civil- Propose language similar to CCP 1740(a) for non-money judgments

The superior court may, after notice to all parties, attempt to resolve any issues raised regarding a tribal court ~~money~~ judgment by contacting the tribal court judge who issued the judgment. The superior court shall allow the parties to participate in, and shall prepare a record of, any communication made with the tribal court judge pursuant to this section.

Juvenile- Welfare and Institutions Code (WIC)

WIC 305.5(h) The court may, after notice to all the parties, attempt to resolve any jurisdictional issues raised in the Indian child custody proceeding by contacting the tribal court judge of the Indian child's tribe. The court shall allow the parties to participate in, and shall prepare a record of any communication made with the tribal court judge pursuant to this section.

Family

UCJEA implemented in Cal. Fam. Code

§ 3410. Communication with court in another state or a tribal court concerning proceeding

(a) A court of this state may communicate with a court in another state or a tribal court in this state concerning a proceeding arising under this part.

(b) The court of this state may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made by the court of this state.

(c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subdivision (c), a record must be made of a communication under this section. A court of this state must notify t~~The parties must be informed~~ promptly of the communication and granted the parties access to the record.

(e) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

SESSION 6:

Incremental Approach to Recognition and
Enforcement of Non-Money Judgments –
Which Case Types?
(NO MATERIALS)

SESSION 7:
Enhancing Tribal-State Collaborations

Tribal Law and Policy Institute (TLPI) was awarded the “Enhancing Tribal-State Collaborations” grant through Bureau of Justice Assistance grant. The California Tribal Court-State Court Forum looks forward to some of the proposed activities under this grant, which include:

1. A Multi-Disciplinary National Meeting on Tribal-State Collaboration;
2. On-site technical assistance, webinars, and publications fostering tribal-state collaboration;
3. [Walking on Common Ground](#) website;
4. Intergovernmental Collaboration (IGC) Team; and
5. Activities relating to the Tribal Law and Order Act/Violence Against Women Act: in collaboration with National Congress of American Indians.

SESSION 8:
Forum Priorities 2016-2017 and
Annual Agenda/Work Plan

Tribal Court–State Court Forum (forum)
Annual Agenda—2017
Approved by E&P: _____

I. ADVISORY BODY INFORMATION

Chair:	Hon. Abby Abinanti, Chief Judge, Yurok Tribal Court and Hon. Dennis M. Perluss, Presiding Justice, Court of Appeal, Second Appellate District, Division Seven
Staff:	Ms. Jennifer Walter, Supervising Attorney, Center for Families, Children & the Courts
<p>Advisory Body’s Charge:</p> <p>The forum makes recommendations to the Judicial Council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps.</p> <p>In addition to the general duties and responsibilities applicable to all advisory committees as described in rule 10.34, the forum must:</p> <ol style="list-style-type: none"> 1. Identify issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California; 2. Make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases, and the sharing of services among jurisdictions; 3. Identify, develop, and share with tribal and state courts local rules of court, protocols, standing orders, and other agreements that promote tribal court–state court coordination and cooperation, the use of concurrent jurisdiction, and the transfer of cases between jurisdictions; 4. Recommend appropriate activities needed to support local tribal court–state court collaborations; and 5. Make proposals to the Governing Committee of the Center for Judicial Education and Research on educational publications and programming for judges and judicial support staff. <p>[Excerpted from California Rules of Court, rule 10.60]</p>	

Advisory Body's Membership:

Twenty-nine positions—29 members representing the following categories:

- Thirteen tribal court judges (nominated by their tribal leadership, representing 13 of the 23 tribal courts currently operating in California; these courts serve approximately 39 tribes)
- Director of the California Attorney General's Office of Native American Affairs (ex officio)
- Tribal Advisor to the California Governor (ex officio)
- One appellate justice
- Seven chairs or their designees of the following Judicial Council advisory committees:
 - Access and Fairness Advisory Committee
 - Governing Committee of the Center for Judicial Education and Research (CJER)
 - Civil and Small Claims Advisory Committee
 - Criminal Law Advisory Committee
 - Family and Juvenile Law Advisory Committee
 - Probate and Mental Health Advisory Committee
 - Traffic Advisory Committee
- Five trial court judicial officers (selected from local courts in counties where tribal courts are situated and one from Los Angeles*)
- One retired judge (advisory)

*Judge D. Zeke Zeidler, who was originally appointed as the designee of the Access and Fairness Advisory Committee, is finishing out his term, which expires on September 14, 2017.

Subgroups/Working Groups: None

Advisory Body's Key Objectives for 2017:

1. Make policy recommendations that enable tribal and state courts to improve access to justice, to issue orders, and to enforce orders to the fullest extent allowed by law.
2. Increase Tribal/State partnerships that identify issues of mutual concern and proposed solutions.
3. Make recommendations to committees developing judicial education institutes, multi-disciplinary symposia, distance learning, and other educational materials to include content on federal Indian law and its impact on state courts, including interjurisdictional issues.

II. ADVISORY BODY PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	<p>Policy Recommendations: A. Legislation</p> <p><i>Major Tasks:</i> (i) Indian Child Welfare Act (ICWA): Review newly adopted <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015 (Vol. 80 FR No. 54 14880) approved Bureau of Indian Affairs Guidelines (as published in the Federal Register on December, 30, 2016 (Vol. 81 FR No. 251 96476), and statewide Indian Child Welfare Task Force Report on the Indian Child Welfare for possible recommendations to the Judicial Council for sponsored legislation or legislative positions on bills</p>	1(a)	<p>Judicial Council Direction:</p> <p>Strategic Plan Goal I: Access, Fairness, and Diversity</p> <p>Operational Plan Objective 2: Identify and eliminate barriers to court access at all levels of service; ensure interactions with the court are understandable, convenient, and perceived as fair.</p> <p>Strategic Plan Goal II: Independence and Accountability. Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Modernization of Management and Administration Operational Plan Objective 5</p>	January 1, 2019	Recommendations submitted to the Judicial Council for consideration by the Legislature and the Governor.

¹ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

² For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>that will be introduced to comply with the federal law.</p> <p>(ii) Judge-to-Judge Communications: Develop legislative proposal modeled after California Code of Civil Procedure section 1740, which authorizes a state court, after notice to all parties, to attempt to resolve any issues raised regarding a tribal court judgment by contacting the tribal court judge who issued the judgment. The proposal would also require a court to permit the parties to participate in the judge-to-judge communication and to prepare a record of any communication with the tribal court.</p> <p>(iii) Make recommendation to implement a streamlined process to recognize and enforce non-money judgments issued by a tribal court (incremental strategy building on the success of council-sponsored legislation, SB 406, see page 16 for status of project).</p> <p>(iv) Explore use of state funding in connection with the service of process or notices for state court domestic violence restraining</p>	2	<p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence Operational Plan Objective 4</p> <p>Origin of Project: Forum</p> <p>Resources: Forum and Policy Coordination and Liaison Committee (PCLC)</p> <p>Judicial Council Staffing: Center for Families, Children & the Courts (CFCC) and Governmental Affairs</p> <p>Key Objective Supported: 1</p>		

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	orders to pay for service of tribal protection orders.				
2.	<p>Policy Recommendation: B. Rules and Forms – ICWA</p> <p>Review newly adopted <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015, (Vol. 80 FR No. 54 14880) and approved Bureau of Indian Affairs Guidelines (as published in the Federal Register on December, 30, 2016, (Vol. 81 FR No. 251 96476) for possible amendments to Title 5. Family and Juvenile rules relating to the ICWA.</p>	1(a)	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: Federal Law</p> <p>Resources: Family and Juvenile Law Advisory Committee and Forum</p> <p>Judicial Council Staffing: CFCC and LS</p> <p>Key Objective Supported: 1</p>	January 1, 2018	Rule and form recommendations that comply with federal rules and guidelines implementing ICWA
3.	<p>Policy Recommendation: C. Rule and Forms – Juvenile Records</p> <p>Revise California Rules of Court, rule 5.552 to conform to the requirements of subdivision (f) of section 827 of the Welfare and Institutions Code, which was added effective January 1, 2015, to clarify the right of an Indian child’s tribe to have access to the</p>	1(a)	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: Justice partners have commented that the rule is</p>	January 1, 2018	Rule recommendations that comply with statute.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	juvenile court file of a case involving that child. At that time, no changes were made to California Rules of Court, rule 5.552, which implements section 827 of the Welfare and Institutions Code. Contrary to section 827 as amended, rule 5.552, continues to require that representatives of an Indian child's tribe petition the juvenile court if the tribe wants access to the juvenile court file. This inconsistency has created confusion.		<p>contrary to statute and has created confusion.</p> <p>Resources: Family and Juvenile Law Advisory Committee and Forum</p> <p>Judicial Council Staffing: CFCC and LS</p> <p>Key Objective Supported: 1</p>		
4.	<p>Policy Recommendation: D. Rule and Forms – Child Support</p> <p>Revise California Rule of Court, rule 5.372 in response to the need for consistent procedures for determining the orderly transfer of title IV-D child support cases from the state court to the tribal court when there is concurrent subject matter jurisdiction. Since implementation of the rule of court, over 40 cases have been considered for transfer between the state courts in Humboldt and Del Norte counties and the Yurok Tribal Court. The Yurok Tribe intends to seek transfer of cases currently under the jurisdiction of state court in the</p>	1(a)	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: This proposal grew out of the cross-court educational exchange convened by Judge Abinanti and Judge Wilson. Representatives of the State Department of Child Support Services, local county child support agencies, the tribal child support program, the tribal court, the state</p>	January 1, 2018	Rule recommendations that implement federal law.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>following counties: Lake, Mendocino, Shasta, Siskiyou, and Trinity. In addition, at least one other tribe located in Southern California is expected to soon begin handling title IV-D child support cases. Based on the experience with the transfers that have taken place so far, the participants of a cross-court educational exchange have suggested amendments to rule 5.732 to streamline the process, reduce confusion, and ensure consistency and efficient use of court resources.</p>		<p>courts, and Judicial Council staff met to review the case transfer procedures; and justice partners proposed a number of revisions to improve the transfer process.</p> <p>Resources: Family and Juvenile Law Advisory Committee and Forum</p> <p>Judicial Council Staffing: CFCC and LS</p> <p>Key Objective Supported: 1</p>		
5.	<p>Policy Recommendation: E. Tribal Access to the Child Abuse Central Index (Index)</p> <p>The Index is used to aid law enforcement investigations and prosecutions, and to provide notification of new child abuse investigation reports involving the same suspects and/or victims. Information is also used to help screen applicants for licensing or employment in child care facilities, foster homes, and adoptive homes. The purpose of allowing access to this information on a statewide basis is to quickly provide authorized agencies, including tribal agencies, with relevant information</p>	2	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: California Indian Legal Services brought this topic of mutual concern to tribal and state courts to the forum's attention at one of its meetings. Resources: Forum and California Department of Justice</p>	2017	California Department of Justice to give tribal access to the Index and local tribal and county child welfare agencies to share relevant information from the Index.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>regarding individuals with a known or suspected history of abuse or neglect. While tribal agencies can obtain information from the Index, they cannot readily submit information to the Index.</p> <p>This practice poses several problems: (1) suspected or known abusers may remain in the home of a child posing safety risks; (2) unnecessary duplication of effort by agencies; (3) delays in entry into the Index due to double investigations; and (4) barriers to sharing information among tribal and nontribal agencies that should be working together to protect children. The forum recommends exploring executive branch action to permit tribal access to the Index.</p>		<p>Judicial Council Staffing: CFCC</p> <p>Key Objective Supported: 1</p>		
6.	<p>Policy Recommendations:</p> <p>F. Technological Initiatives</p> <p><i>Major Tasks:</i></p> <p>(i) Recommend Judicial Council continue giving tribal courts access to the California Courts Protective Order Registry (CCPOR).</p> <p>(ii) Explore development of an electronic application to improve inquiry and notice under ICWA.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III:</p> <p>Operational Plan Objective 5: Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p>	Ongoing	<p>(i) State and tribal courts will be able to see each other's protective orders, to avoid conflicting orders, and to promote enforcement of these orders.</p> <p>(ii) Application will be developed and will improve inquiry and notice practices under ICWA.</p>

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Strategic Plan Goal VI:</p> <p>Operational Plan Objective 4: Implement new tools to support the electronic exchange of court information while balancing privacy and security.</p> <p>Origin of Project: Forum</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC and Information Technology</p> <p>Collaborations: Stanford Design Center</p> <p>Key Objective Supported: 1</p>		
7.	<p>Policy Recommendation: G. Other</p> <p><i>Major Tasks:</i> (i) Prepare a request to the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics to amend the canons to permit with appropriate safeguards a judge who sits concurrently on a tribal court and a state court to fundraise on behalf of a tribal court.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal II Operational Plan Objective 3</p> <p>Origin of Project: Forum cochair</p> <p>Resources: Forum and California Supreme Court’s Advisory Committee on the Code of Judicial Ethics</p> <p>Judicial Council Staffing: CFCC</p>	2017	<p>Request prepared and submitted.</p> <p>Amended canon permitting judges who sit concurrently on tribal court and a state court to fundraise on behalf of a tribal court.</p>

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	(ii) Make recommendation to the California State Bar Association to waive pro hac vice fees for out-of-state counsel representing tribes in ICWA cases.		<p>Collaborations:</p> <p>Key Objective Supported: 2 Increase Tribal/State partnerships that identify issues of mutual concern and proposed solutions.</p>		
8.	<p>Increase Tribal/State Partnerships:</p> <p>A. Sharing Resources and Communicating Information About Partnerships</p> <p><i>Major Tasks:</i></p> <p>(i) Identify Judicial Council and other resources that may be appropriate to share with tribal courts.</p> <p>(ii) Identify tribal justice resources that may be appropriate to share with state courts.</p> <p>(iii) Identify grants for tribal/state court collaboration.</p> <p>(iv) Share resources and information about partnerships through Forum E-Update, a monthly electronic newsletter.</p> <p>(v) Publicize these partnerships at conferences, on the Innovation Knowledge Center (IKC), and at other in-person or online venues.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal I: Access, Fairness, and Diversity</p> <p>Operational Plan Objectives 1, 2, 4:</p> <ul style="list-style-type: none"> • Ensure that all court users are treated with dignity, respect, and concern for their rights and cultural backgrounds, without bias or appearance of bias, and are given an opportunity to be heard. • Expand the availability of legal assistance, advice and representation for litigants with limited financial resources. <p>Strategic Plan Goal IV: Quality of Justice and Service to the Public.</p> <p>Operational Plan Objectives 1, 3:</p> <ul style="list-style-type: none"> • Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes. 	Ongoing	Increased Tribal/State partnerships for sharing resources and communicating information.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<ul style="list-style-type: none"> Develop and support collaborations to improve court practices to leverage and share resources and to create tools to educate court stakeholders and the public. <p>Origin of Projects: Forum and California State-Federal Judicial Council</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>		
9.	<p>Increase Tribal/State Partnerships:</p> <p>B. Education and technical assistance to promote partnerships and understanding of tribal justice systems</p> <p><i>Major Tasks:</i></p> <p>(i) Make recommendation to Judicial Council staff to continue providing educational and technical assistance to local tribal and state courts to address</p>	2	<p>Judicial Council Direction:</p> <p>Strategic Plan Goal I Operational Plan Objectives 1, 2, 4</p> <p>Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council</p> <p>Resources: Forum</p>	Ongoing	Increased Tribal/State partnerships for educational and technical assistance.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>domestic violence and child custody issues in Indian country.</p> <p>(ii) Make recommendation to Judicial Council staff to provide technical assistance to evaluate the joint jurisdictional court and to courts wishing to replicate the model.</p> <p>(iii) Make recommendation to the Judicial Council staff to continue developing civic learning opportunities for youth that exposes them to opportunities and careers in tribal and state courts.</p> <p>(iv) Make recommendation to explore, at the option of tribes, opportunities for state and federal court judges to serve as a tribal court judge.</p>		<p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>		
10.	<p>Increase Tribal/State Partnerships:</p> <p>C. Tribal/State collaborations that increase resources for courts</p> <p>Develop and implement strategy to seek resources for tribal/state collaborations.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Origin of Projects: Forum</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>	Ongoing	Tribal/State collaborations that increase resources for courts.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
11.	<p>Education: A. Judicial Education</p> <p><i>Major Tasks:</i></p> <p>(i) In collaboration with the CJER Curriculum Committees, consult on and participate in making recommendations to revise the CJER online toolkits so that they integrate resources and educational materials from the forum’s online federal Indian law toolkit. Forum judges are working together with committee representatives from the following curriculum committees: (1) Access, Ethics, and Fairness, (2) Civil, (3) Criminal, (4) Family, (5) Juvenile Dependency and Delinquency, and (6) Probate.</p> <p>(ii) Develop a ten-minute mentor video on the Information Bulletin relating to the recognition and enforcement of tribal protection orders, issued by the California Office of the Attorney General. This Information Bulletin was the culmination of work by the forum in partnership with the California Department of Justice (DOJ), the California State Sheriffs’ Association, the U.S. Attorney</p>	2	<p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1: Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council Resolution (June 1, 2012)</p> <p>Resources: CJER, Forum, and DOJ</p> <p>Judicial Council Staffing: CFCC and CJER</p> <p>Key Objective Supported: 3</p>	Ongoing, completion date depends on funding.	CJER toolkits, located on the Judicial Resources Network, will be updated to include federal Indian law. Ten-minute educational video to be posted online and shared statewide with justice partners.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	General's Office, and other justice partners.				
12.	<p>Education: B. Education –Documentary</p> <p>Having consulted on and participated in the production of a documentary about tribal justice systems in California, the forum will be exploring ways to use the film to educate judges and justice partners on tribal justice systems. The forum will consider consulting on the development of online curriculum to complement the film.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council Resolution (June 1, 2012)</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Key Objective Supported: 3</p>	2017	Wide distribution of the film and use of training materials that complement the film.
13.	<p>Education C. Truth and Reconciliation</p> <p>Consider collaboration among the three branches of state government in partnership with tribal governments to promote a truth and reconciliation project that acknowledges California's history, as described in Professor Benjamin Madley's book, An American Genocide: The United States and the California Indian Catastrophe, with respect to indigenous peoples, fosters an understanding of our shared history, and lays a foundation</p>	2	<p>Judicial Council Direction: Strategic Plan Goal I Operational Plan Objectives 1, 2, 4</p> <p>Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1</p> <p>Origin of Projects: Forum Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p>		

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	for reconciliation, which promotes a call to action.		Collaborations: Tribal Governments and State Government Key Objective Supported: 2		

III. STATUS OF 2016 PROJECTS:

[List each of the projects that were included in the 2016 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
1.	<p>Policy Recommendations:</p> <p>A. Legislative Study SB 406, Judicial Council-sponsored legislation, included a “sunset” provision (Code of Civ. Proc. § 1742) providing that the legislation will expire on January 1, 2018, unless legislative action is taken to extend it.</p> <p>B. Promote Policy The California Department of Public Health would not issue a birth certificate based on a tribal parentage order. The forum worked with the executive branch to issue an agency directive that would recognize tribal parentage orders.</p>	<p>A. October 6, 2016/Study completed and upon recommendation by the California Law Review Commission, Legislature is likely to remove the sunset provision.</p> <p>B. February 9, 2016/California Department of Public Health – Vital Records (CDPH-VR) issued an All County Letter clarifying its policy regarding the acceptance of Tribal Court Orders relating to adjudications of facts of parentage.</p>
2.	<p>Policy Recommendation:</p> <p>C. Rules and Forms–Indian Child Welfare Act (ICWA)</p> <p>1. In response to the California Supreme Court decision in <i>In re Abbigail A.</i> (2016) (Cal.5th 83), the forum recommend amending California Rules of Court, rule 5.482, by deleting subdivision (c) of that rule, which the Supreme Court held is invalid. The Family and Juvenile Law Advisory Committee and Probate and Mental Health Advisory Committee joined in this recommendation, and on July 29, 2016, the Judicial Council adopted this recommendation.</p> <p>2. Forum reviewed pending <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015, (Vol. 80 FR No. 54 14880) and approved Bureau of Indian Affairs Guidelines (as published in the Federal Register on December 30, 2016, (Vol. 81 FR No. 251 96476) for possible amendments to Title 5. Family and Juvenile rules relating to ICWA.</p>	<p>1. July 29, 2016/Effective date of August 15, 2016</p> <p>2. Ongoing</p>

3.	<p>Policy Recommendations:</p> <p>D. Technological Initiatives</p> <ol style="list-style-type: none"> 1. Consulted with the California Attorney General’s Office regarding access to California Law Enforcement Telecommunications System (CLETS) by tribal courts. This consultation, which included federal and other state justice partners, resulted in an Informational Bulletin issued by the California Department of Justice. This Information Bulletin clarifies that verification of a tribal protection order in any statewide database (e.g., CLETS) is not a precondition to recognition and enforcement of these orders. 2. Recommended Judicial Council staff continue giving tribal courts access to the California Courts Protective Order Registry (CCPOR). 3. Due to lack of staffing resources, the forum did not explore the development of an electronic application to improve inquiry and notice under ICWA. 	<ol style="list-style-type: none"> 1. November 29, 2016/Information Bulletin issued by the California Department of Justice. 2. Ongoing 3. Project will be undertaken next year if prioritized by the forum.
4.	<p>Policy Recommendation:</p> <p>E. Other</p> <p>Due to lack of staffing resources and competing priorities, the forum did not prepare a request to the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics to amend the canons to permit a judge who sits concurrently on a tribal court and a state court to fundraise on behalf of a tribal court.</p>	<p>Project will be undertaken next year if prioritized by the forum.</p>
5.	<p>Increase Tribal/State Partnerships:</p> <p>A. Sharing Resources and Communicating Information About Partnerships</p> <ol style="list-style-type: none"> 1. Disseminated information to tribal court judges and state court judges on a monthly basis through the Forum E-Update, a monthly electronic newsletter with information on the following: <ul style="list-style-type: none"> • Grant opportunities; • Publications; 	<p>Ongoing</p>

	<ul style="list-style-type: none"> • News stories; and • Educational events. <p>2. Fostered tribal court/state court partnerships, such as the Superior Court of Los Angeles County’s Indian Child Welfare Act Roundtable and the Bay Area Collaborative of American Indian Resources—court-coordinated community response to ICWA cases in urban areas.</p>	
6.	<p>Increase Tribal/State Partnerships:</p> <p>B. Education and Technical Assistance to Promote Partnerships and Understanding of Tribal Justice Systems</p> <ol style="list-style-type: none"> 1. Continue to provide the State/Tribal Education, Partnerships, and Services (S.T.E.P.S.) to Justice—Domestic Violence and Child Welfare programs and provide local educational and technical assistance services. 2. Continue the first joint jurisdictional court in California. The Superior Court of El Dorado County, in partnership with the Shingle Springs Band of Miwok Indians, is operating a family wellness court. Next year, will provide technical assistance to evaluate the joint jurisdictional court. (See Court Manual). 3. Establish partnership between the Superior Court of Humboldt County and the Yurok Tribal Court to develop a civics learning opportunity for youth in the region. 	Ongoing
7.	<p>Increase Tribal/State Partnerships:</p> <p>C. Tribal/State Collaborations that Increase Resources for Courts</p> <p>Obtained funding from the U.S. Department of Justice, Office on Violence Against Women, which is administered through the California Office of Emergency Services (Cal OES). This funding pays for the S.T.E.P.S. to Justice—Domestic Violence and associated travel expenses for judges to participate in cross-court educational exchanges. These exchanges are judicially led and shaped by the host judges (one tribal court judge and one state court judge) and enable the judges to continue the dialogue on</p>	Ongoing

	<p>domestic violence and elder abuse in tribal communities, which began as part of a statewide needs assessment. At these exchanges, judges utilize a checklist of problems and solutions identified through the needs assessment to determine how they can work together to address these issues locally.</p> <p>Obtained funding from the California Department of Social Services. This funding pays for the associated travel expenses for forum members to improve compliance with ICWA.</p>	
8.	<p>Education</p> <p>A. Judicial Education</p> <ol style="list-style-type: none"> 1. Made recommendations to CJER to incorporate federal Indian law into all appropriate educational publications and programming for state court judges and advise on content; revisions to include federal Indian law; and the inter-jurisdictional issues that face tribal and state courts. 2. Convened a cross-court educational exchange at Hopland for over 60 participants on behalf of the Superior Court of Mendocino County and the Northern California Intertribal Court System. The focus was domestic violence prevention and child welfare. 3. Participated in a meeting convened by the National Council of Juvenile and Family Court Judges to develop resources to address ICWA and domestic violence cross-over issues in Indian country. 4. Hosted a national gathering of tribal/state court forums at the Second Appellate District of the Court of Appeal in Los Angeles. 5. Held annual in-person meeting, which also serves as an educational program. 6. Presented to the California Commission on Access to Justice. 7. Convened a cross-court educational exchange in Klamath on child support. 	<ol style="list-style-type: none"> 1. Ongoing, completion date depends on resources to incorporate recommendations. 2. December 2016 3. April 2016 4. June 2016 5. June 2016 6. September 2016 7. October 2016

	<p>8. Prepared a judicial job aid on the new federal regulations and guidelines on ICWA.</p> <p>9. Sponsored two judicial educational programs:</p> <p>(1) Pre-Institute ICWA Roundtable This roundtable brought together California tribal and state court judges as well as nationally known experts to explore, through interactive case scenarios, legal topics such as new federal mandates under ICWA, recent case law developments, and how to avoid reversals in these cases. The focus was on practical implications of recent development to juvenile child welfare courts in California. The roundtable complemented the Juvenile Law Institute workshop on ICWA</p> <p>(2) Juvenile Law Institute Workshop on ICWA This workshop covered the new comprehensive federal ICWA regulations, which became effective December 12, 2016. In addition, the workshop discussed significant recent cases, including two important California Supreme Court cases, and highlighted important practice changes as a result of the new federal requirements.</p>	<p>8. November 2016</p> <p>9. December 5, 2016</p>
9.	<p>Education</p> <p>D. Documentary Consult on and participate in the production of a documentary describing tribal justice systems and highlighting collaboration between these systems and the state justice system.</p>	<p>February 2017/Documentary is completed. Accepted for distribution through Corporation for Public Broadcasting, Point of View series. Submission to film festivals pending.</p>
10.	<p>Education</p> <p>E. ICWA Roundtable Cosponsored the Pre-Institute ICWA Roundtable (see item 8 above) in collaboration with CASEY Family Programs and the National American Indian Judges Association.</p>	<p>December 5, 2016</p>

IV. Subgroups/Working Groups - Detail

Subgroups/Working Groups: *None*