



JUDICIAL COUNCIL
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

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TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING

June 7, 2018
12:15-1:15 p.m.

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

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

Others Present: *Ms.Carolynn Bernabe, Ms. Vida Castaneda, Ms. Charlene Depner, Ms. Audrey Fancy, Ms. Ann Gilmour, Ms. Bonnie Hough, Ms. Andi Liebenbaum, Ms. Joy Ricardo, Mr. Greg Tanaka, and Mr. Don Will*

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 Forum approved the April 12, 2018 meeting minutes.

DISCUSSION AND ACTION ITEMS (ITEMS 1-7)

Item 1

Cochairs Report

- Update on [nomination](#)/appointment process
The nomination period is now closed awaiting Chief Justice's official appointments for September.

Item 2

[Restorative Justice and Government to Government Collaboration in Alaska: A Model for California](#)

Presenter: Hon. Eric Smith, Ret., Alaska Superior Court

The Alaska Supreme Court has implemented Criminal Rule 11(i) and Delinquency Rule 23(f), which authorize judges to refer cases to tribes and other justice organizations for recommendations as to the appropriate sentence or disposition. Retired Superior Court Judge Eric Smith was asked by the Court to implement these rules. Judge Smith worked with tribes and proposed an agreement, called a "Plan", by which the tribe and the court system agree to a formal and binding procedure for the referral process.

The basic model is as follows:

- the tribe will monitor the court calendar on the court's website to learn if member will be arraigned on a case;
- if tribe is interested in the case, the court will send the relevant documents to the tribe and will refer the matter to the tribe;
- if the parties agree, the court will set sentencing out long enough for the tribe to conduct the proceeding;
- the tribe will conduct the proceeding and will provide a formal recommendation to the court as to the sentence or disposition;
- the court will carefully and respectfully consider the recommendation and impose sentence.

The court system has signed 15 separate formal [Plans](#) between the court and the tribes. The court system has also developed a set of forms that the tribes can use for filing the notifications and sentencing recommendations. For further information, Judge Smith can be contacted at esmith@akcourts.us

Item 3

Update on RUPRO Items—Pro Hac Vice and Remote Access

Presenter: Ann Gilmour

The comment period ends June 8th. The Pro Hac Vice proposal received two comments from Yurok Tribe and the Chickisaw Nation supporting the proposal with no changes. No major revisions to the proposal are anticipated. Remote access proposal has received comments, but not on tribal related issues.

Item 4

Legislative Update

*Presenter: Andi Liebenbaum, Attorney, Judicial Council's Governmental Affairs
Heather Hostler, Director, California Department of Social Services (DCSS),
Office of Tribal Affairs*

AB 3176 Indian children. This bill, supported by the Judicial Council (JC), implements recent changes in federal ICWA regulations and guidance, the JC directed staff to continue work with stakeholders on the areas of concern. After stakeholder discussions, the bill has been amended, and the concerns raised have been substantively addressed. JC worked with DCSS on the trailer bill to address issues around jurisdiction and tribal courts, how compatible the trailer bill with AB 3176. An effort spearheaded by DCSS to work with proponents of AB 3176. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required for a specified reason.

In addition to AB 3176, here are two bills introduced impacting the federal ICWA:

AB 3047 Court fees: waiver: Indian Child Welfare Act. This bill, supported by the JC, would waive the pro hac vice filing fee for attorneys representing tribe for child welfare matters. The original form has not been amended. It is on the consent calendar with the Assembly, hearing for next week at the Judiciary.

AB 3076 Indian child welfare: legal services. This bill, supported by the JC, would require the State Bar of California to administer grants to qualified legal services projects and qualified support centers for providing legal services to Indian tribes in child welfare matters. This bill has passed Assembly unanimously; Senate hearing not scheduled yet.

Item 5

U.C. Davis Law School–Tribal Justice Project

Presenter: Hon. Christine Williams, Chief Judge, Shingle Springs Rancheria Tribal Court and Director of the Tribal Justice Project

Ms. Jennifer Leal, a descendant of the Washoe and Mono Lake Paiute communities from northern California, is the Tribal Justice Project’s Program Administrator, a new project under Aoki Center for Critical Race and Nation Studies at UC Davis Law School, launched in March 2018. The project’s mission is to provide training and education to tribal court judges and personnel, enhance law school offering to students pursuing careers in Indian and policy law. The project supports tribal sovereignty, provides technical assistance for tribes and training for tribal court systems. The first training will be held at the Yurok Tribal Court on June 27-28, open to tribal court personnel and judges, community members interested in becoming a tribal court judge and learning more about working internal administration of courts. Tribal Court Symposium at UC Davis Law School will be held on September 27, which is California Indian Day.

Item 6

California Lawyers Association Family Law Section–Meeting at Shingle Springs Rancheria

Presenters: Hon. Christine Williams

Hon. Mark Juhas, Judge, Superior Court of California, County of Los Angeles

Chief Judge Christine Williams reported that Shingle Springs hosted the Family Law Section of the California Lawyers Association (formerly housed at the State Bar of California) on April 16. This was the first time this annual educational program has been hosted by a tribe on tribal lands. Shingle Springs was honored to be the first tribe to host the event. The goal was to reach out to include attorneys in rural areas and to introduce those attorneys to tribal lands and issues. The event was well attended and received. The session was very interactive. It included a tour of the tribal court and discussion of how tribal court and state court activities intersect. The event was a direct result of the relationships that have been built through the Forum, as Judge Juhas reached out and suggested that Judge Williams might like to host the event.

Item 7

Recent and Upcoming Conferences

Presenter: Vida Castaneda

- On April 13, the first ever Bay Area ICWA Symposium was held at the Judicial Council conference area in San Francisco. The symposium was a collaboration between local Bay Area Universities Title IV-E program coordinators, the Tribal State/Programs Unit and Casey Family Programs. We had over 150 attendees there that included judges, attorneys, social workers, tribal community, students, service providers, and educators. The morning session included an invocation by local Ohlone tribal member Corrina Gould, keynote speech by Judge Abinanti, historical trauma panel featuring: Judge Williams, Corrina Gould, Michele Maas and Dr. Jolivette, a plenary by Stephen Pevar and an array of afternoon workshops focused on ICWA. We received an abundance of positive feedback and had many requests for the symposium to be held annually, which the planning committee has agreed to do. We

will be highlighting the CalSWEC article about the symposium in our next Tribal Court-State Court Forum e-update for further information.

- June 4-6, the 25th Annual ICWA Conference was held at Graton Rancheria. This year's theme was "Weaving Traditions to Defend, Protect and Honor Indian Children, Families and Tribes". The conference featured many interesting and valuable ICWA related workshops and plenaries. Our Tribal/State Programs Unit participated on the panel "Protecting Tribal Children in California" and Forum members were on the "Judicial Systems Honoring Tribal Children, Families and Tribes: ICWA Compliance Through Innovation" panel. Each day provided great information and an opportunity to hear from incredible speakers we are considering having for our own upcoming events.

Next Forum call is August 16, 2018.

A D J O U R N M E N T

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

Approved by the advisory body on August 16, 2018.