



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

April 11, 2019
12:15-1:15 p.m.

Advisory Body Members Present: *Hon. Abby Abinanti, Co-chair, Hon. Suzanne Kingsbury, Cochair, Hon. April Attebury, Hon. Patricia Guerrero, Ms. Heather Hostler, Hon. Kristina Kalka, Hon. Patricia Lenzi, Hon. Devon Lomayesva, Hon. Lester Marston, Hon. Gilbert Ochoa, Hon. Michael Sachs, Hon. Cindy Smith, Hon. John Sugiyama, Hon. Sunshine Sykes, Hon. Christine Williams, Hon. Joseph Wiseman, and Hon. Mark Vezzola*

Advisory Body Members Absent: *Hon. Erin Alexander, Hon. Richard Blake, Hon. Hilary Chittick, Hon. Gail Dekreon, Hon. Leonard Edwards (Ret.), Hon. Mark Juhas, Hon. Lawrence King, Hon. William Kockenmeister, Ms. Christina Snider, Hon. Robert Trentacosta, Hon. Juan Ulloa, and Hon. Claudette White*

Others Present: *Ms. Audrey Fancy, Ms. Vida Castaneda, Ms. Cindy Chen, Ms. Ann Gilmour, Ms. Joy Ricardo, Delia Sharpe (on phone), Donna Hershkowitz (on phone)*

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 February 28, 2019 meeting minutes.

DISCUSSION AND ACTION ITEMS (ITEMS 1-5)

Info 1

CoChairs Report

Appointments to the Forum

The deadline for applying as a state court judge (for counties with a tribal court) to the Forum has now been extended to April 12, 2019. For Tribal Court Judges – solicitations went out to Tribal Leaders regarding upcoming tribal court vacancies. If your term is expiring, you have already been contacted by staff. Deadline for nominations for Tribal Court Judges is May 15, 2019.

Info 2

State Bar Justice Gap Study

Presenter: Donna S. Hershkowitz, Chief of Programs for the State Bar of California

Donna S. Hershkowitz presents on the State Bar Justice Gap Study. The study will involve a survey of various populations to get an idea of the extent of the justice gaps across the state. A copy of the [Daily Journal article](#) on the national study is included in the materials. In 2017, the Legal Service Corporation conducted a [nationwide justice gap study](#). Ms. Hershkowitz explains the focus of the 2017 national study, and the information the California State Bar hope to learn from conducting a similar study. Highlights and lessons learned from the national study are shared. Ms. Hershkowitz stated the State Bar study will involve a survey of the 97 legal services organizations funded by the State Bar. House hold panel surveys of approximately 2,800 people will be sent out as well. In developing the State Bar study, the Bar will identify the types of information deficits that might be encountered with the surveys. One such deficiency is how to best gather information from tribal communities about the justice gaps that exist. The State Bar proposes partnering with the Forum or some of its members to release the survey into tribal communities where there are tribal courts to obtain feedback on the greatest justice needs in these areas.

Action Item 1
Legislation

Presenter: Delia Sharpe, Executive Director, California Tribal Families Coalition
Discussion of AB 685 and AB 686

Ms. Sharpe gives a presentation on the two bills that CTFC is sponsoring, [AB 685](#) and [AB 686](#). The subjects of both bills are issues that are identified among the 20 recommendations in the [California ICWA Compliance Taskforce Report](#). AB 685 proposes: 1) funding for legal counsel for tribes in juvenile dependency proceedings involving tribal member children; 2) funding counsel for tribes in appellate cases; and 3) requiring ICWA training for children's counsel in cases where ICWA applies. It is anticipated that the bill will be amended to also include training for parents' counsel.

AB 686 proposes incorporating ICWA's placement requirement into the recently amended state child welfare placement guidelines known as, Resource Family Approval. Additionally, the bill seeks to ensure the following: 1) that Indian children continue to be placed according to standards of the Indian community as required by ICWA; 2) mandating telephonic appearances and also waive associated fees to promote the full tribal participation as parties in ICWA cases; and 3) clarifying that tribes are eligible for adoption homestudy funding.

Forum takes a vote and recommends that the Judicial Council support AB 685 and 686.

Info 3
Tribal Court Judges Immunity

Presenter: Judge Lester Marston

Judge Marston gives overview of Tribal Judge Immunity legislation proposal. Information about the case Judge Marston refers to are included in the agenda materials. There are no state or federal court decisions that hold that tribal court judges are entitled to judicial immunity. It is uncertain that a legislative proposal is the only answer. There may be other means to accomplish this objective. If not addressed, it could have adverse impacts on tribal courts and tribal court judges. Judge Marston poses the following questions for future consideration by the Forum: Should the Forum get involved in this issue? What are the possible solutions to the problem?

Judge Kingsbury suggests asking the JC's Legal Services Office be contacted for an analysis of this issue and assessment of the appropriateness of being handled at national or state level, as well as what the ethical implications are for the Forum involving itself in an issue that is still pending before the court of appeal. Forum will revisit issue at a future meeting.

Info 4

RUPRO

Presenter: Ann Gilmour, Attorney, Judicial Council Center for Families, Children & the Courts
Ms. Gilmour provides an update to the Forum on the status of RUPRO item addressing the implementation of AB 3176. This item was approved by the Forum and subsequently approved for circulation (with no changes) by the RUPRO committee on April 10, 2019. It will go out for public comment during the period of April 11-June 10th. Ms. Gilmour will circulate the Invitation to Comment to the Forum members and to the tribal listserv.

Info 5

Recent and Upcoming Conferences

Vida Castaneda, Senior Analyst, Judicial Council Center for Families, Children & the Courts

- Please visit www.rootandrebound.org to learn more details about webinars Root and Rebound is hosting with the Practicing Law Institute on April 22, 2019 from 10:00AM – 12:00PM on Tribal Reentry Advocacy and also another webinar on June 17, 2019 from 12:00PM – 1:00PM with the Legal Aid Association of California (LAAC)
- The Judicial Council of California will be the host site for the Pathways to Justice 2019 conference in partnership with the Legal Aid Association of California. This conference will be from Monday, June 3 to Wednesday, June 5, 2019. More information to come in the next Forum e-update newsletter.
- The 26th Annual ICWA Statewide Conference will be held this year at the Pala Casino Resort & Spa in San Diego from June 19-21, 2019. This year's theme is "ICWA at a Crossroads: Shaping the Modern Village Through Culture and Tradition". For more information contact the Office of Tribal Affairs at CDSS.
- On September 10-12, 2019 in Palm Springs, the Tribal Law and Policy Institute will be featuring the Tribal Healing to Wellness Court Enhancement Training. The Enhancement Training is a tribal-specific national training for tribal problem-solving courts introducing Wellness Court best practices and innovative strategies. Training topics will cover adult criminal, juvenile delinquency, family dependency, DWI/DUI, and veterans models. This training is free and open to all prospective attendees. Workshop proposals are due on April 30, 2019 For more information, visit www.tlpi.org.
- The California Association of Collaborative Courts will hold their Annual Conference from October 28 – 30, 2019 at the Holiday Inn in downtown Sacramento. Visit www.CA2C.org for more information about registration and workshops.
- For more information on upcoming webinars or out of state conferences, please refer to our most recent e-update newsletter or feel free to reach out to Vida Castaneda and she will be happy to assist you.

Next Forum call is June 13, 2019.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:14 p.m.

Approved by the advisory body on August 8, 2019.