



# JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

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## TRIBAL COURT-STATE COURT FORUM

### NOTICE AND AGENDA OF OPEN & CLOSED MEETING

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1) and (e)(1))

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

THIS MEETING IS BEING RECORDED

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**Date:** August 12, 2021  
**Time:** 12:15-1:15 p.m.  
**Public Call-in Number:** 833-568-8864 US Toll-free; Meeting ID: 161 161 6341 (Listen Only)

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Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Members of the public seeking to make an audio recording of the meeting must submit a written request at least two business days before the meeting. Requests can be e-mailed to [forum@jud.ca.gov](mailto:forum@jud.ca.gov).

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

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#### I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

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##### **Call to Order and Roll Call**

##### **Approval of Minutes**

Approve minutes of the June 10, 2021, Tribal Court-State Court Forum meeting.

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#### II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1))

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This meeting will be conducted by electronic means with a listen only conference line available for the public. As such, the public may submit comments for this meeting only in writing. In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to [forum@jud.ca.gov](mailto:forum@jud.ca.gov) or mailed or delivered to 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Ann Gilmour. Only written comments received by 12:15 p.m. on August 11, 2021 will be provided to advisory body members prior to the start of the meeting.

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**III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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**Info 1**

**Cochairs Report**

- Approval of Minutes for June 10, 2021 Meeting;
- Introduction of new Judicial Council staff;
- Welcome and introduction of incoming Forum members

**Info 2**

**Planning 2022 Annual Agenda**

*Presenters: All*

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**IV. ADJOURNMENT**

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**Adjourn**



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OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

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TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING WITH CLOSED SESSION

June 10, 2021  
12:15-1:15 p.m.

**Advisory Body Members Present:** *Hon. Abby Abinanti, Co-chair, Hon. Suzanne Kingsbury, Cochair, Hon. Erin Alexander, Hon. Leona Colegrove, Hon. Mark Juhas, Hon. Kristina Kalka, Hon. Lawrence King, Hon. Patricia Lenzi, Ms. Merri Lopez-Keifer, Hon. Michael Sachs, Hon. Delia Sharpe, Ms. Christina Snider, Hon. Sunshine Sykes, Hon. Mark Vezzola, Hon. Christine Williams.*

**Advisory Body Members Absent:** *Hon. April Attebury, Hon. Richard Blake, Hon. Hilary Chittick, Hon. Gail Dekreon, Hon. Leonard Edwards (Ret.), Hon. Gregory Elvine-Kreis, Hon. Patricia Guerrero, Ms. Heather Hostler, Commissioner Jayne Lee, Hon. Devon Lomayesva, Hon. Gilbert Ochoa, Hon. Cindy Smith, Hon. Robert Trentacosta, Hon. Juan Ulloa, Hon. Joseph Wiseman.*

**Others Present:** *Ms. Vida Castaneda, Ms. Francine Byrne, Ms. Audrey Fancy, Ms. Sheri Galino, Ms. Ann Gilmour, Ms. Andi Liebenbaum, Ms. Amanda Morris, Ms. Marymichael Smrdeli, What Mr. Corby Sturges, Mr. Randolph Peshon.*

OPEN MEETING

**Call to Order and Roll Call**

The co-chairs called the meeting to order at 12:17 p.m.

**Approval of Minutes**

The Forum approved the April 8, 2021 meeting minutes.

Motion to approve by Judge Lawrence King. Seconded by Judge Mark Vezzola.

DISCUSSION AND ACTION ITEMS (ITEMS 1-3)

**Info 1**

**Co-Chairs Report**

The Forum approved the April 8, 2021 meeting minutes

**Info 2**

**Collaborative Justice Courts Advisory Committee – opportunities for cross-committee collaboration**

Presenters: Undersheriff Randolph Peshon (retired), El Dorado County Sheriff's Office  
Placerville

Undersheriff Randolph Peshon gave the committee an overview of the recent work of the Collaborative Justice Courts Advisory Committee and subcommittees.

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**C L O S E D   S E S S I O N   I T E M   ( I T E M   1 )**

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**Item 1**  
**Rules Proposal**

Ann Gilmour and Andi Liebenbaum updated the committee on the following legislation of interest:

AB 627 – Tribal Court divorce decree recognition by State Courts

AB 855 – Court closure holiday – the courts will no longer recognize Columbus Day and will instead recognize Native American Day.

SB 354 – Bill expands the opportunity for children to get placement by allowing courts to grant exceptions for family members who have been previously of an offence.

AB 873 – Tribal matching share of costs under Child Welfare Services agreements.

AB 640 – Bill involves terminating and reestablishing jurisdiction orders

AB 546 – Bill involves information to be provided to youths before turning 18 years old.

SB 739 – Universal basic income, including a \$1000/month stipend for 3 years for foster youth.

AB 260 - Bill would authorize the probate court to refer a child to a welfare agency for investigation for the purpose of ensuring child gains access to correct resources.

Also discussed was the rules and forms proposal regarding ICWA's application to probate/temporary guardianship. The proposal has circulated for public comment and staff sought direction on how to respond to several comments. Committee agreed to form a small group to discuss this topic with the Probate and Mental Health Advisory Committee.

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**A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 1:21 p.m.

Pending approval by the advisory body on \_\_\_\_\_.



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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|   |  |
|---|--|
| <b>Date</b><br>August 6, 2021   | <b>Action Requested</b><br>Please Review   |
| <b>To</b><br>Members of the Tribal Court-State Court Forum  | <b>Deadline</b><br>August 12, 2021   |
| <b>From</b><br>Hon. Abby Abinanti, Cochair<br>Hon. Suzanne Kingsbury, Cochair<br>Tribal Court-State Court Forum | <b>Contact</b><br>Ann Gilmour, Attorney<br>415-865-4207 phone<br>ann.gilmour@jud.ca.gov<br><br>Vida Castaneda, Senior Analyst<br>415-865-7874<br>vida.castaneda@jud.ca.gov |
| <b>Subject</b><br>2022 Annual Agenda Planning   |  |

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We plan to devote most of our August 12, 2021 Forum meeting to planning our annual agenda for 2022. The August 12 meeting will take place via zoom.

Staff have prepared a list of some activities that we are required to undertake by legislation, or that we should undertake based on various concerns raised by yourselves, justice partners, or members of the public. Those ideas and projects are attached. We also want to hear from each of you about the activities we could undertake that would best support your efforts to improve cross-jurisdictional collaboration, partnerships and improve access to justice for tribal communities and individuals in California.

As you know, all Judicial Council advisory bodies have a specific role and charge in advising the Judicial Council. The mandate and charge of the Tribal Court–State Court Forum is set out in California Rules of Court, rules 10.30, 10.34 and 10.60 which are attached. Specifically the Forum is charged with identifying issues of mutual importance to tribal and state justice systems, making recommendations for the recognition and enforcement of court orders that cross jurisdictional lines, sharing of services between jurisdictions, promoting policies and procedures

to improve coordination and cooperation between jurisdictions, use of concurrent jurisdiction and the transfer of cases between jurisdictions and assisting with judicial branch education in these areas.

Generally, our annual agendas have been organized by subject matter and activity type. Our priority areas of subject matter focus have been:

1. *Indian Child Welfare Act* compliance and process improvement;
2. Domestic Violence, MMIP, stalking etc. – improve outcomes in these areas through increased collaboration, tribal access to data bases and resources, education, etc.
3. Promote mutual recognition and enforcement of tribal and state court orders that cross jurisdictional lines; and
4. Cross System education, collaboration and sharing of resources.

The activities we have undertaken in these areas include:

- A. Rules and forms;
- B. Legislation;
- C. Policy recommendations;
- D. Recommendations on technology initiatives;
- E. Supporting collaborations, innovative practices and system improvements; and
- F. Education.

Our 2021 Forum annual agenda is attached for your review and ease of reference.

After the very challenging circumstances that our communities and justice systems have had to adapt to over the last year and a half, we look forward to hearing from you your thoughts on how the Forum can assist communities to move forward.

Please take some time to review the attached ideas for the 2022 annual agenda and come prepared to the August 12, 2021 Forum meeting with thoughts on other activities the Forum can and should undertake.

## Tribal Court – State Court Forum 2022 Annual Agenda Planning Outline

### Priority Area

#### 1. **Indian Child Welfare Act compliance and process improvement**

##### A. Potential Rules and Forms

- Form implementing the remote appearance rule – Tribal Notification of Intent to Appear Remotely Form: Last year the Forum undertook a rules project to implement section 224.2(k) of the Welfare and Institutions Code which mandated the Judicial Council adopt rules of court to allow for telephonic or other remote appearance options by an Indian child's tribe in ICWA cases at no cost to the tribes. Following comment period, a Forum member suggested that it would be useful to create a form by which the tribe could notify the court of its intention to appear remotely.
- Ensure that tribes appearing in juvenile cases are provided with information about court processes and procedures; their rights regarding remote appearances; access to electronic records; right to submit information to the court via the ICWA-100 Tribal Information form, etc.: This could be done by creating a standalone form or pamphlet along the lines of [The Juvenile Dependency Court and You: a Guide for Parents](#) or the [JV-050-INFO](#) or [JV-060-INFO](#) or other INFO forms; by weaving relevant information through existing forms such as the ICWA-005 INFO or [ICWA-030](#) form. In addition we could include this information in an updated job aid: [ICWA Information Sheet: Tribal participation in State court proceedings governed by ICWA.](#)
- Amend ICWA-030 form to include contact information for listed relatives. Tribes have expressed an interest in being able to contact relatives directly for further information if necessary. Also, other technical amendments and possibly add information about tribal rights to remote appearance, etc.
- Rules and Forms to implement updated [Foster Care Bill of Rights](#) in juvenile cases: Updates included protections of cultural rights of all native children as well as specific protections for Indian children. These are legal rights that complement but are independent of ICWA and particularly implicate rights in juvenile justice and other cases involving Indian children where ICWA may not strictly apply.
- Implementation of [AB 1055 Foster youth: tribal pupils](#). Bill is to ensure that foster children under jurisdiction of a tribal court have same access to educational resources as other foster children. May require development of forms and procedures to identify these children.
- Implementation of legislation on use of social and cultural standards in placements of Indian children.
- Other Ideas???

##### B. Legislation

- Process to allow for a transfer of an ICWA cases from tribal court to state court and for the recognition and enforcement of tribal court dependency orders: currently law only envisions

transfers of cases from state court to tribal court, not the other way around. Nor is there a process for registration or recognition of tribal juvenile court orders in the same way as for family law custody or probate guardianship cases. If parents abscond with children or otherwise ignore tribal court juvenile court orders, this has become a problem.

- Updating the Probate Code to implement AB 3176 and federal regulations.
- Notification to tribes when Indian foster children go missing?
- Other ideas??

C. Policy recommendations?

- Appointment of attorneys for Indian parents in Probate Guardianship cases?
- Removing barriers to use of culturally appropriate tribal programs in court ordered case plans as part of improving “active efforts”.

**2. Domestic Violence, MMIP, stalking etc. – improve outcomes in these areas through increased collaboration, tribal access to data bases and resources, education, etc.**

C. Policy Recommendations & E. Supporting collaborations:

- Collaborate with the CSEC Action Team of the Child Welfare Council in development of harm reduction resources and other activities;
- Collaborate with Attorney General’s Office on implementation of AB 3099 with a particular emphasis on report regarding MMIP and state court role in identifying and assisting victims;
- Collaborate with the Joint Commission established under the [Not Invisible Act](#): The Not Invisible Act, sponsored by Secretary Deb Haaland when she served in Congress, mandates the creation of a Commission that includes representatives of Tribal, state and local law enforcement; Tribal judges; health care and mental health practitioners with experience working with Indian survivors of trafficking and sexual assault; urban Indian organizations focused on violence against women and children; Indian survivors of human trafficking; and family members of missing and murdered Indian people.

**3. Promote mutual recognition and enforcement of tribal and state court orders that cross jurisdictional lines;**

A. Potential Rules and Forms

- Implementation of [AB 627](#) ERISA Legislation:

This is a mandatory project. The legislation requires the Judicial Council create a form of application and certificate in lieu of signature under section 1733.1(a) & (e) and a Notice of filing form under section 1735(a).

Other ideas?



**4. *Cross System education, collaboration and sharing of resources.***

- Work with Collaborative Courts Advisory Committee to integrate knowledge of Joint Jurisdiction Courts as well as tribal programs such as juvenile healing to wellness courts and adult programs as diversions into collaborate courts models;
- Activities to support expansion of joint-jurisdiction courts??

## Tribal Court–State Court Forum

### Annual Agenda—2021<sup>1</sup>

Approved by Executive and Planning Committee: March 11, 2021

#### I. COMMITTEE INFORMATION

|  |  |
|--|--|
| <b>Chair:</b>  | Hon. Abby Abinanti, Chief Judge, Yurok Tribal Court<br>Hon. Suzanne N. Kingsbury, Presiding Judge, Superior Court of California, County of El Dorado |
| <b>Lead Staff:</b>   | Ms. Ann Gilmour, Attorney, Center for Families, Children & the Courts  |
| <b>Committee’s Charge/Membership:</b><br><p><a href="#">Rule 10.60</a> of the California Rules of Court states the charge of the Tribal Court–State Court Forum (Forum), which is to make 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 overlap. <a href="#">Rule 10.60 (b)</a> sets forth additional duties of the Forum. <a href="#">Rule 10.60(c)</a> sets forth the membership position of the forum. The Forum currently has 31 members.</p> <ul style="list-style-type: none"><li>• Fourteen tribal court judges (nominated by their tribal leadership, representing 21 of the 27 tribal courts currently operating in California; these courts serve approximately 35 tribes.;</li><li>• Five trial court judges from counties in which a tribal court is located;</li><li>• One appellate justice;</li><li>• Seven chairs or their designees of the following Judicial Council advisory committees:<ul style="list-style-type: none"><li>○ Advisory Committee on Providing Access and Fairness</li><li>○ Center for Judicial Education and Research Advisory Committee</li><li>○ Civil and Small Claims Advisory Committee</li><li>○ Criminal Law Advisory Committee</li><li>○ Family and Juvenile Law Advisory Committee</li><li>○ Probate and Mental Health Advisory Committee</li><li>○ Traffic Advisory Committee</li></ul></li><li>• Three executive branch officials responsible for tribal-related work: The Governor’s Tribal Advisor, the Director of the Office of Native American Affairs; and the Director of the California Department of Social Services’ Office of Tribal Affairs; and</li><li>• One retired judge (advisory);</li></ul> <p>The current <a href="#">roster</a> is available on the committee’s web page.</p> |  |

<sup>1</sup> The annual agenda outlines the work a committee will focus on in the coming year and identifies areas of collaboration with other advisory bodies and the Judicial Council staff resources.

**Subcommittees/Working Groups<sup>2</sup>:**

None.

**Meetings Planned for 2021 (Advisory body and all subcommittees and working groups)<sup>3</sup>**

1. Webinars in lieu of in person meeting: March 5, 12, 19, and 26, 2021, from 12:00 to 2:00 p.m. (Proposed)
2. Telephone Meetings: February 11, April 8, June 10, August 12, October 14, and December 9, 2021, from 12:15 to 1:00 p.m.
3. Ad hoc meetings as required.

Check here if exception to policy is granted by Executive Office or rule of court.

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<sup>2</sup> California Rules of Court, rule 10.30 (c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

<sup>3</sup> Refer to [Operating Standards for Judicial Council Advisory Bodies](#) for governance on in-person meetings.

## II. COMMITTEE PROJECTS

| #   | New or One-Time Projects <sup>4</sup>  |   |
|---|--|---|
| 1.  | <b>Project Title:</b> Updates to the <i>Bench Handbook: The Indian Child Welfare Act</i> | <b>Priority<sup>5</sup></b> 2<br><br><b>Strategic Plan Goal<sup>6</sup></b> IV, V |
| <p><b>Project Summary<sup>7</sup>:</b> The Bench Handbook on the <i>Indian Child Welfare Act</i> is an important resource for judicial officers published by the Center for Judicial Education and Research (CJER). It was last updated in 2013. There have been significant developments in the law since that last update, including enactment of comprehensive federal regulations governing the Indian Child Welfare Act (ICWA) in 2016 and changes to California statutes implementing the Act and corresponding changes to the California Rules of Court.</p> <p><b>Status/Timeline:</b> In consultation with CJER staff, the Center for Families, Children &amp; the Court (CFCC) contracted an attorney with expertise in the Indian Child Welfare Act to perform an initial update of the bench handbook last year. Committee members will review the draft product during the beginning of 2021 and work with CJER to finalize the updated bench handbook.</p> <p><b>Fiscal Impact/Resources:</b> Work will be accomplished within existing CFCC staff resources.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b>Internal/External Stakeholders:</b> None.</p> <p><b>AC Collaboration:</b> CJER.</p> |  |   |

<sup>4</sup> 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.

<sup>5</sup> 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.

<sup>6</sup> Indicate which goal number of [The Strategic Plan for California's Judicial Branch](#) the project most closely aligns.

<sup>7</sup> A key objective is a strategic aim, purpose, or "end of action" to be achieved for the coming year.

| #   | <b>New or One-Time Projects<sup>4</sup></b>  |  |
|---|--|--|
| 2.  | <b>Project Title: Finalize and Publish the California Tribal Court–State Court Joint Jurisdiction Toolkit: A Resource Guide to Promote and Facilitate Cross-Jurisdictional Collaboration</b> | <b>Priority<sup>5</sup> 2</b><br><b>Strategic Plan Goal<sup>6</sup> IV, V</b>    |
| <p><b>Project Summary<sup>7</sup>:</b> Promoting efficiency and economies of judicial resources and improving quality of justice to tribal communities through cross-jurisdictional collaboration has been a focus of the Forum since its inception and has been supported by the Judicial Council through innovation grants and other technical assistance. There are now at least three successful Tribal-State Joint Jurisdiction Courts operating in California and more across the country. This publication draws together the experiences, planning materials, policies, procedures, and other framework materials from these courts into a toolkit designed specifically for courts in California that may want to create their own joint jurisdiction arrangements.</p> <p><b>Status/Timeline:</b> This publication will be completed during the 2021 annual agenda period.</p> <p><b>Fiscal Impact/Resources:</b> Work will be accomplished within existing CFCC staff resources.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b>Internal/External Stakeholders:</b> None.</p> <p><b>AC Collaboration:</b> None.</p> |  |  |
| 3.  | <b>Project Title: Revisions to Probate Guardianship ICWA Rules</b>   | <b>Priority<sup>5</sup> 1(a)</b><br><b>Strategic Plan Goal<sup>6</sup> I, IV</b> |
| <p><b>Project Summary<sup>7</sup>:</b> Most of the Judicial Council rules of court implementing ICWA are contained in rules 5.480 through 5.488. These rules are intended to apply in all case types involving ICWA including Family, Juvenile, and Probate Guardianship cases. However, there are also rules in Division 7—governing Probate proceedings that implement and impact ICWA cases. The Probate and Mental Health Advisory Committee is updating these rules to conform to updated ICWA requirements.</p> <p><b>Status/Timeline:</b> This work will take place during the Spring 2021 rules cycle with an anticipated effective date of January 1, 2022.</p> <p><b>Fiscal Impact/Resources:</b> Work will be accomplished within existing CFCC staff resources.</p>   |  |  |

| # | New or One-Time Projects <sup>4</sup>   |
|---|---|
|   | <p data-bbox="218 196 1940 266"><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p data-bbox="218 310 722 337"><b><i>Internal/External Stakeholders:</i></b> None.</p> <p data-bbox="218 381 1094 409"><b><i>AC Collaboration:</i></b> Probate and Mental Health Advisory Committee.</p> |

| #  | <b>Ongoing Projects and Activities<sup>4</sup></b>  |  |
|--|---|--|
| 1.   | <b>Project Title: Indian Child Welfare Act Compliance and Implementation Improvements</b> | <b>Priority<sup>5</sup> 2, 2(a)</b><br><b>Strategic Plan Goal<sup>6</sup> I, IV, V</b> |
| <p><b>Project Summary<sup>7</sup>:</b> Improvements to California’s implementation of the <i>Indian Child Welfare Act</i> is a primary focus of the work of the Forum. In recent years, the Forum ICWA work has included rules to implement AB 3176 <i>Indian Children</i>, (Waldron; Stats. 2018, ch. 833) which amended provisions of the Welfare and Institutions Code to conform California law to the requirements of the federal Indian Child Welfare Act Regulations and Guidelines adopted in 2016 and other statutory developments, responding to comments and concerns from judicial officers, tribal leaders, tribal advocates and justice partners such as the California Department of Social Services, child welfare agencies and county counsel’s offices, and responding to the recommendations in the California ICWA Compliance Task Force <a href="#">report</a> presented to California Attorney General Xavier Becerra in March of 2017. The report includes issues and recommendations related to compliance with the Indian Child Welfare Act in California. Several of the findings and recommendations relate to the work of the judicial branch. These recommendations include:</p> <ul style="list-style-type: none"> <li>• Mandating increased ICWA training for bench officers, attorneys, and Court Appointed Special Advocates (see recommendations 6 and 7 of the task force report);</li> <li>• Support the development and implementation of consolidated ICWA courts or calendars and joint jurisdiction courts (see recommendations 16 and 17 of the task force report);</li> <li>• Facilitate remote appearances by tribes in ICWA cases;</li> <li>• Addressing challenges of out-of-state tribes and their members located in California in ICWA cases;</li> <li>• Seek funding for appointed counsel for tribes in ICWA cases; and</li> <li>• Ensure that tribes get access to all paperwork, pleadings and minutes on the same basis as other parties.</li> </ul> <p><b>Status/Timeline:</b> Much of the critical implementation work on implementing AB 3176 was done during the spring 2019 rules cycle with an effective date of January 2020 with some supplemental work done during the 2020 rules cycle with an effective date of January 2021. Updating of job aids, educational resources, and training materials is ongoing and will continue through 2021, as well as collaboration on funding for appointed counsel for tribes in ICWA cases which was deferred from last year’s annual agenda as resources and feasibility allow.</p> <p><b>Fiscal Impact/Resources:</b> Work will be accomplished with existing CFCC staffing resources.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b>Internal/External Stakeholders:</b> May involve collaboration with CJER staff on updating education resources.</p> |   |  |

| #  | <b>Ongoing Projects and Activities<sup>4</sup></b>   |   |
|----|--|---|
|    | <i>AC Collaboration:</i> Family and Juvenile Law Advisory Committee and Probate and Mental Health Advisory Committee with respect to recommendations that impact the work of those bodies.   |   |
| 2. | <b>Project Title: Implement a Legislative Proposal to Facilitate Recognition of Tribal Court Orders Regarding the Division of Marital Assets as “Qualified Domestic Relations Order” Within the Meaning of 29 USC §1056(d)(3)(B) to Divide Pensions and Other Benefits Within the Scope of the Employee Retirement Income Security Act (ERISA) and Other Pension Plans.</b>  | <b>Priority<sup>5</sup> 2</b><br><b>Strategic Plan Goal<sup>6</sup> I, IV</b> |
|    | <p><b>Project Summary<sup>7</sup>:</b> As part of its charge under rule 10.60(b)(2) the Forum is to make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines. Domestic relations is an area where tribal courts in California are increasingly exercising jurisdiction. The effectiveness of these orders is undermined when they are not fully recognized and enforced. Tribal courts report that some of their clients are having difficulty having division of marital assets orders issued with respect to pension benefits subject to ERISA recognized by plan administrators. As part of its statute governing the recognition and enforcement of foreign money judgements, Oregon has adopted a provision to recognize qualifying tribal court orders as domestic relations orders for ERISA purposes. The Judicial Council sponsored legislation in 2014 to establish the Tribal Court Civil Money Judgement Act (Code of Civ. Proc. §§1730-1742). In 2020, the Judicial Council approved a legislative proposal which had been proposed by the Forum and Family and Juvenile Law Advisory Committee. This coming year, the Judicial Council Governmental Affairs will seek a sponsor for the legislation and move the legislative process forward.</p> <p><b>Status/Timeline:</b> Subject to sponsorship and legislative approval, a likely effective date of January 1, 2022.</p> <p><b>Fiscal Impact/Resources:</b> Work will be completed within existing CFCC and Governmental Affairs staff resources.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b>Internal/External Stakeholders:</b> Governmental Affairs and potentially members of family law bar and pension plan administrators.</p> <p><b>AC Collaboration:</b> Family and Juvenile Law Advisory Committee.</p> |   |
| 3. | <b>Project Title: Policy Recommendations: Ethics</b>   | <b>Priority<sup>5</sup> 2</b><br><b>Strategic Plan Goal<sup>6</sup> I, IV</b> |
|    | <b>Project Summary<sup>7</sup>:</b> State and tribal court judges may sit on each other’s benches and hear cases in the other jurisdiction through a joint-jurisdiction court or on an ad hoc or ongoing basis. The Forum will continue to work with the California Supreme Court’s Advisory   |   |



| #  | <b>Ongoing Projects and Activities<sup>4</sup></b>  |                               |
|----|---|-------------------------------|
|    | <p>Committee on the Code of Judicial Ethics and make recommendations and request advisory opinions or amendments to the canons as appropriate and necessary to facilitate such collaborations.</p> <p><b>Status/Timeline:</b> Ongoing. Generally, new work under this item will continue to be deferred.</p> <p><b>Fiscal Impact/Resources:</b> Work will be accomplished by existing CFCC staff.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b>Internal/External Stakeholders:</b> None.</p> <p><b>AC Collaboration:</b> Advisory Committee on the Code of Judicial Ethics.</p>  |                               |
| 4. | <b>Project Title: Policy Recommendation: Tribal Access to the Child Abuse Central Index</b>   | <b>Priority<sup>5</sup> 2</b> |
|    | <p><b>Strategic Plan Goal<sup>6</sup> I, IV</b></p> <p><b>Project Summary<sup>7</sup>:</b> The Tribal Access to the Child Abuse Central Index (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.</p> <p>While tribal agencies can obtain information from the Index, they cannot readily submit information to the Index. This practice poses several problems:</p> <ol style="list-style-type: none"> <li>(1) Suspected or known abusers may remain in the home of a child posing safety risks;</li> <li>(2) Unnecessary duplication of effort by agencies;</li> <li>(3) Delays in entry into the Index due to double investigations; and</li> <li>(4) Barriers to sharing information among tribal and nontribal agencies that should be working together to protect children. The forum will explore consulting with the Department of Justice to consider executive branch action to permit tribal access to the Index.</li> </ol> <p><b>Status/Timeline:</b> Ongoing. Generally, new work under this item will continue to be deferred.</p> <p><b>Fiscal Impact/Resources:</b> Work will be accomplished within existing CFCC staff.</p> |                               |

| #  | <b>Ongoing Projects and Activities<sup>4</sup></b>   |                               |
|--|--|-------------------------------|
|  | <input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i><br><br><b>Internal/External Stakeholders:</b> California Department of Justice.<br><br><b>AC Collaboration:</b> Family and Juvenile Law Advisory Committee. |                               |
| 5.   | <b>Project Title Policy Recommendation: Technological Initiatives</b>  | <b>Priority<sup>5</sup> 2</b> |
| <p><b>Project Summary<sup>7</sup>:</b><br/>           (A) Both federal and state law require mutual full faith and credit for domestic violence restraining orders issued by tribal and state courts.<br/>           A crucial aspect of promoting the mutual recognition and enforcement of such court orders is facilitating knowledge between state and tribal courts as to the protective orders issued by their respective courts. The Forum and staff have worked to provide tribal courts with the ability to read orders contained in the California Courts Protective Order Registry (CCPOR) and to facilitate entry of appropriate orders issued by tribal courts into CCPOR.</p> <p><b>Status/Timeline:</b> Ongoing. Technological initiatives have been a fundamental part of court responses to the COVID-19 pandemic both in state and tribal justice systems. Generally, new work under this item will be deferred unless it is helpful in responding to the conditions created by the COVID-19 pandemic.</p> <p><b>Fiscal Impact/Resources:</b> Existing CFCC, CJER, and Information Technology (IT) staff.</p> <input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i><br><br><b>Internal/External Stakeholders:</b> External stakeholders include tribal courts.<br><br><b>AC Collaboration:</b> None. <p>(B) Since its inception, the Forum has been exploring ways to improve and simplify the process of doing inquiry and providing notice in cases governed by the Indian Child Welfare Act (ICWA). The Forum will continue to explore these opportunities, including whether document assembly programs might be helpful in reducing the time required and errors in ICWA inquiry and populating forms with the</p> |  |                               |

| #  | <b>Ongoing Projects and Activities<sup>4</sup></b>   |  |
|----|--|--|
|    | <p>information gathered. The Forum will also monitor any ongoing e-notice pilot programs or other technological advances in other jurisdictions and make recommendations to the Judicial Council on replicating those in California.</p> <p><b>Status/Timeline:</b> This is an ongoing Forum charge.</p> <p><b>Fiscal Impact/Resources:</b> Existing IT and CFCC staff with document assembly expertise.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b>Internal/External Stakeholders:</b> None.</p> <p><b>AC Collaboration:</b> None.</p>   |  |
| 6. | <p><b>Project Title: Funding and Support for Innovative Practices and System Improvements</b></p>  | <p><b>Priority<sup>5</sup> 2</b></p> <p><b>Strategic Plan Goal<sup>6</sup> I, IV</b></p> |
|    | <p><b>Project Summary<sup>7</sup>:</b> The Forum seeks to support innovative practices and system improvements including seeking funding for such initiatives as a pilot program to facilitate tribal participation and improve outcomes in ICWA cases by providing appointed counsel for tribes in these cases.</p> <p><b>Status/Timeline:</b> Ongoing. In 2017 the Judicial Council submitted a federal grant application which would have provided inter alia funding for a pilot project to provide appointed counsel to tribes in ICWA cases. The Forum and Tribal/State Programs Unit staff will continue to seek out available funding. The goal of facilitating innovative practices and system improvements and seeking funding for this is to improve efficiencies in cases that span both jurisdictions or could be heard in either jurisdiction. This could potentially reduce workloads for state courts and improve access to justice for underserved and remote tribal communities. Generally, new work under this item will be deferred unless it is helpful in responding to the conditions created by the COVID-19 pandemic.</p> <p><b>Fiscal Impact/Resources:</b> Existing CFCC staff.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b>Internal/External Stakeholders:</b> None.</p> <p><b>AC Collaboration:</b> None.</p> |  |

| #  | <b>Ongoing Projects and Activities<sup>4</sup></b>   |   |
|--|--|---|
| 7.   | <b>Project Title: Increase Tribal/State Partnerships: Sharing Resources and Communicating Information About Partnerships</b> | <b>Priority<sup>5</sup> 2</b><br><b>Strategic Plan Goal<sup>6</sup> I, IV</b> |
| <p><b>Project Summary<sup>7</sup>:</b> One of the guiding principles of the Forum is to improve access to justice by providing tribal and state courts access to resources for capacity building and collaboration on an equal basis, sharing resources, and seeking out additional resources.</p> <ol style="list-style-type: none"> <li>1. Identify Judicial Council and other resources that may be appropriate to share with tribal courts.</li> <li>2. Identify tribal justice resources that may be appropriate to share with state courts.</li> <li>3. Identify grants for tribal/state court collaboration.</li> <li>4. Share resources and information about partnerships through Forum E-Update, a monthly electronic newsletter.</li> <li>5. Publicize these partnerships at conferences, on the Innovation Knowledge Center (IKC), and at other in-person or online venues.</li> <li>6. Disseminate information to tribal court judges and state court judges monthly through the Forum E-Update, a monthly electronic newsletter with information on the following: <ul style="list-style-type: none"> <li>○ Grant opportunities;</li> <li>○ Publications;</li> <li>○ News stories; and</li> <li>○ Educational events.</li> </ul> </li> <li>7. Foster 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 and the providing technical assistance to the joint-jurisdiction collaborations between the Yurok Tribe and the Superior Court of California, County of Humboldt and the Shingle Springs Band of Miwok Indians and the Superior Court of California, County of El Dorado.</li> </ol> <p><b>Status/Timeline:</b> Ongoing. During this year two tribal court systems were provided with access to unlocked Judicial Council Juvenile, Family, Probate, and Domestic Violence forms that the staff of the court systems adapted for their use. The goal of facilitating partnerships between state and tribal courts is to improve efficiencies in cases that span both jurisdictions or could be heard in either jurisdiction. This could potentially reduce workloads for state courts and improve access to justice for underserved and remote tribal communities. Generally, new work under this item will be deferred unless it is helpful in responding to the conditions created by the COVID-19 pandemic.</p> <p><b>Fiscal Impact/Resources:</b> Work will be accomplished with existing CFCC staff.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> |  |   |

| #  | <b>Ongoing Projects and Activities<sup>4</sup></b>  |                                      |
|----|---|--------------------------------------|
|    | <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> None.</p>   |                                      |
| 8. | <p><b>Project Title: Increase Tribal/State Partnerships: Tribal/State Collaborations that Increase Resources for Courts</b></p>   | <p><b>Priority<sup>5</sup> 2</b></p> |
|    | <p><b>Project Summary<sup>7</sup>:</b> A primary goal of the Forum is to improve relationships between state and tribal courts and foster collaboration between those courts. There are now at least three active joint-jurisdiction projects ongoing between Forum member state and tribal courts—the Superior Court of California, County of El Dorado collaborative with the Shingle Springs Band of Miwok Indians Tribal Court and the Superior Court of California, County of Humboldt collaboration with the Yurok Tribal Court. The Forum will explore ways to assist courts that wish to expand their joint-jurisdiction programs to include veteran’s programs or other specialized focus areas. The Forum will explore ways to support and increase the numbers of joint jurisdiction courts and other innovative models such as regional ICWA courts and dedicated ICWA courts or calendars, including providing education, developing tools and resources and seeking opportunities for additional grant funding to support such courts.</p> <p><b>Status/Timeline:</b> Ongoing. This year the JCC staff are supporting these collaborations by sharing resources and agreements and offering technical assistance on collaborations. The goal of facilitating collaborations between state and tribal court judges is to improve efficiencies in cases that span both jurisdictions or could be heard in either jurisdiction. This could potentially reduce workloads for state courts and improve access to justice for underserved and remote tribal communities. Generally, new work under this item will be deferred unless it is helpful in responding to the conditions created by the COVID-19 pandemic.</p> <p><b>Fiscal Impact/Resources:</b> Collaboration and joint-jurisdiction courts should provide fiscal savings by improving the sharing of resources across jurisdictions. CFCC staff will continue to provide support to this project.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b>Internal/External Stakeholders:</b> External stakeholders include superior courts and tribal courts.</p> <p><b>AC Collaboration:</b> None.</p> |                                      |

| #   | <b>Ongoing Projects and Activities<sup>4</sup></b>   |  |
|---|--|--|
| 9.  | <b>Project Title: Increase Tribal/State Partnerships: Education and Technical Assistance to Promote Partnerships and Understanding of Tribal Justice Systems</b> | <b>Priority<sup>5</sup> 2</b><br><b>Strategic Plan Goal<sup>6</sup> I, IV, V</b> |
| <p><b>Project Summary<sup>7</sup>:</b> The Forum will continue to develop educational events, resources and tools, and provide technical assistance to promote partnerships and understanding between state and tribal justice systems including:</p> <ol style="list-style-type: none"> <li>1. Make recommendation to Judicial Council staff to continue providing educational and technical assistance to local tribal and state courts to address domestic violence and child custody issues in Indian country.</li> <li>2. Make recommendation to Judicial Council staff to provide technical assistance to evaluate the joint jurisdictional court and to courts wishing to replicate the model.</li> <li>3. 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.</li> <li>4. Make recommendation to explore, at the option of tribes, opportunities for state and federal court judges to serve as a tribal court judge.</li> <li>5. Collaborate with federal courts and federal justice partners on educational and other events related to justice and safety in tribal communities.</li> <li>6. Develop and implement strategy to seek resources for tribal/state collaborations.</li> <li>7. Continue to provide the <a href="#">State/Tribal Education, Partnerships, and Services (S.T.E.P.S.) to Justice—Domestic Violence</a> and <a href="#">Child Welfare</a> programs and provide local educational and technical assistance services.</li> <li>8. 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 and next year will provide technical assistance to evaluate the joint jurisdictional court. (See <a href="#">Court Manual</a>).</li> <li>9. Establish partnership between the Superior Court of Humboldt County and the Yurok Tribal Court to develop civics learning opportunity for youth in the region.</li> </ol> <p><b>Status/Timeline:</b> Ongoing. The goal of facilitating partnerships between state and tribal courts is to improve efficiencies in cases that span both jurisdictions or could be heard in either jurisdiction. This could potentially reduce workloads for state courts and improve access to justice for underserved and remote tribal communities. Generally, new work under this item will be deferred unless it is helpful in responding to the conditions created by the COVID-19 pandemic.</p> <p><b>Fiscal Impact/Resources:</b> Work accomplished within existing CFCC and CJER staff resources.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> |  |  |

| #   | <b>Ongoing Projects and Activities<sup>4</sup></b>   |                               |
|-----|--|-------------------------------|
|     | <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> None.</p>  |                               |
| 10. | <b>Project Title: Education: Judicial Education</b>  | <b>Priority<sup>5</sup> 2</b> |
|     | <p><b>Strategic Plan Goal<sup>6</sup> I, IV, V</b></p> <p><i>Project Summary<sup>7</sup>:</i> CJER toolkits, located on the Judicial Resources Network, will be updated to include federal Indian law. Develop 10-minute educational video to be posted online and shared statewide with justice partners. 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><i>Status/Timeline:</i> Ongoing. This past year Forum members and staff of the Tribal/State Programs Unit are collaborated with CJER to create a “Continuing the Dialogue” episode on the Indian Civil Rights Act of 1968 which was screened by CJER and is now available on the CJER and Tribal/State Programs webpages. In the upcoming year the focus will be on a toolkit on tribal issues in human trafficking cases. The goal the forum’s judicial education initiatives is to improve efficiencies in cases involving tribes and tribal people, and promote fair access to justice for tribal communities. Education about the impacts of COVID-19 in tribal communities, and ways tribal communities, tribal justice systems and tribal courts are addressing the challenges of COVID-19 may be of importance in the coming months. Generally, new work under this item will be deferred unless it is helpful in responding to the conditions created by the COVID-19 pandemic.</p> <p><i>Fiscal Impact/Resources:</i> Work will be accomplished with existing CFCC and CJER staff resources.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> Center for Judicial Education and Research Advisory Committee.</p> |                               |

| #  | <b>Ongoing Projects and Activities<sup>4</sup></b>                              |  |
|--|---|--|
| 11.  | <b>Project Title: Education: Truth and Healing</b>                              | <b>Priority<sup>5</sup> 2</b><br><b>Strategic Plan Goal<sup>6</sup> I, IV, V</b> |
| <p><b>Project Summary<sup>7</sup>:</b> Consider collaboration among the three branches of state government in partnership with tribal governments to promote a truth and healing project that acknowledges California’s history, as described in Professor Benjamin Madley’s book, <i>An American Genocide: The United States and the California Indian Catastrophe</i>, with respect to indigenous peoples, fosters an understanding of our shared history, and lays a foundation for healing, which promotes a call to action.</p> <p><b>Status/Timeline:</b> Ongoing. As a step towards the goal of Statewide Truth and Healing, the Forum continues to monitor the development of the Truth and Healing Council announced by Governor Gavin Newsom being organized by the Governor’s Tribal Advisor, a Forum member. At this time the focus is on relationships with the tribal community. Courts may be brought into the Truth and Healing process at a later time. Generally, new work under this item will continue to be deferred.</p> <p><b>Fiscal Impact/Resources:</b> This work will be accomplished with existing CFCC staff.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b>Internal/External Stakeholders:</b> Governor’s Tribal Advisor.</p> <p><b>AC Collaboration:</b> None at this time.</p> |   |  |
| 12.  | <b>Project Title: Legislation, Regulations, and Requests for Public Comment</b> | <b>Priority<sup>5</sup> 2</b><br><b>Strategic Plan Goal<sup>6</sup> I, IV</b>    |
| <p><b>Project Summary<sup>7</sup>:</b> Review and recommend positions on legislation, regulations and requests for public comment related to tribal courts, tribal justice systems and the Indian Child Welfare Act.</p> <p><b>Status/Timeline:</b> Ongoing. From time to time the federal government publishes proposed regulations and requests for public comment that may impact state and tribal justice systems in California. This has been true throughout the COVID-19 pandemic. The Forum can help promote Judicial Branch goals and interests at a federal level by assisting in formulating responses to these. Generally, new work under this item will be deferred unless it is helpful in responding to the conditions created by the COVID-19 pandemic.</p>  |   |  |



| # | Ongoing Projects and Activities <sup>4</sup>  |
|---|---|
|   | <p><b><i>Fiscal Impact/Resources:</i></b> Accomplished with existing CFCC and Governmental Affairs staff resources.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><b><i>Internal/External Stakeholders:</i></b> None.</p> <p><b><i>AC Collaboration:</i></b> None.</p> |

### III. LIST OF 2020 PROJECT ACCOMPLISHMENTS

| #  | Project Highlights and Achievements  |
|----|--|
| 1. | Developed a Legislative Proposal to Facilitate Recognition of Tribal Court Orders Regarding the Division of Marital Assets as “Qualified Domestic Relations Order” Within the Meaning of 29 USC §1056(d)(3)(B) to Divide Pensions and Other Benefits Within the Scope of the Employee Retirement Income Security Act (ERISA) and Other Pension Plans. The proposal was circulated for public comment and ultimately approved by the Judicial Council for Judicial Council sponsored legislation.   |
| 2. | In collaboration with the Judicial Council Governmental Affairs, developed and published the <a href="#"><i>Indian Child Welfare Act (ICWA): Best Practices Guide for California Courts and Judicial Officers: a Toolkit of Policies, Practices, Procedures, and Tips to Improve Compliance by State Courts with the Indian Child Welfare Act and Outcomes for Indian Children, Families, and Tribes</i></a> . This resource highlights existing best practices within and outside of California to address systemic concerns and challenges with ICWA implementation that have been expressed by tribal advocates and attorneys that are not amendable to statewide action through rules of court.  |
| 3. | Developed three rules proposals related to the Indian Child Welfare Act which were approved by the Judicial Council and come into effect January 1, 2021. These proposals are: <a href="#"><i>Indian Child Welfare Act (ICWA): Consent to Temporary Custody of an Indian Child</i></a> which amended California Rules of Court, rule 5.514 and created a new mandatory Judicial Council form, the ICWA-101 <i>Agreement of Parent or Indian Custodian to Temporary Custody of Indian Child</i> ; <a href="#"><i>Indian Child Welfare Act (ICWA): Remote Appearance by an Indian Child’s Tribe in ICWA Proceedings</i></a> which fulfills a statutory mandate to create a rule to confirm the right of an Indian child’s tribe to participate remotely in court hearings governed by ICWA at no cost; and <a href="#"><i>Indian Child Welfare Act (ICWA): Tribal Information Form</i></a> which creates a new optional form, the ICWA-100 <i>Tribal Information Form</i> to allow an Indian child’s tribe to easily submit information to the court for a hearing governed by ICWA. |



# California Rules of Court

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(Revised January 1, 2021)

## Rule 10.30. Judicial Council advisory bodies

### (a) Types of bodies

Judicial Council advisory bodies are typically advisory committees and task forces.

*(Subd (a) adopted effective August 14, 2009.)*

### (b) Functions

The advisory bodies:

- (1) Use the individual and collective experience, opinions, and wisdom of their members to provide policy recommendations and advice to the council on topics the Chief Justice or the council specifies;
- (2) Work at the same policy level as the council, developing recommendations that focus on strategic goals and long-term impacts that align with judicial branch goals;
- (3) Generally do not implement policy. The council may, however, assign policy-implementation and programmatic responsibilities to an advisory body and may request it make recommendations to the Administrative Director on implementation of council policy or programs;
- (4) Do not speak or act for the council except when formally given such authority for specific and time-limited purposes; and
- (5) Are responsible, through Judicial Council staff, for gathering stakeholder perspectives on policy recommendations they plan to present to the council.

*(Subd (b) amended effective January 1, 2016; adopted effective August 14, 2009.)*

### (c) Subcommittees

With the approval of the internal committee with oversight responsibility for the advisory body, an advisory body may form subcommittees, composed entirely of members, to carry out the body's duties, subject to available resources.

*(Subd (c) amended effective February 20, 2014; adopted effective August 14, 2009.)*

### (d) Oversight

The Chief Justice assigns oversight of each council advisory body to an internal committee. The council gives a general charge to each advisory body specifying the body's subject matter jurisdiction. The council and its internal committees provide direction to the advisory bodies.

*(Subd (d) adopted effective August 14, 2009.)*

### (e) Preference for using existing advisory committees

Unless substantial reasons dictate otherwise, new projects requiring committee involvement must be assigned to existing advisory committees.

*(Subd (e) adopted effective August 14, 2009.)*

### (f) Role of the Administrative Director

The Administrative Director sits as an ex officio member of each advisory body.

*(Subd (f) amended effective January 1, 2016; adopted effective August 14, 2009.)*

### (g) Creation

In addition to the advisory committees established by the rules in this division, the Chief Justice may create additional advisory bodies by order.

*(Subd (g) adopted effective August 14, 2009.)*

*Rule 10.30 amended effective January 1, 2016; adopted as rule 6.30 effective January 1, 1999; previously amended and renumbered as rule 10.30 effective January 1, 2007; previously amended effective September 1, 2003, August 14, 2009, and February 20, 2014.*



# California Rules of Court

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(Revised January 1, 2021)

## **Rule 10.34. Duties and responsibilities of advisory committees**

### **(a) Role**

Advisory committees are standing committees created by rule of court or the Chief Justice to make recommendations and offer policy alternatives to the Judicial Council for improving the administration of justice within their designated areas of focus by doing the following:

- (1) Identifying issues and concerns affecting court administration and recommending solutions to the council;
- (2) Proposing necessary changes to rules, standards, forms, and jury instructions;
- (3) Reviewing pending legislation and making recommendations to the Legislation Committee on whether to support or oppose it;
- (4) Recommending new legislation to the council;
- (5) Recommending to the council pilot projects and other programs to evaluate new procedures or practices;
- (6) Acting on assignments referred by the council or an internal committee; and
- (7) Making other appropriate recommendations to the council.

*(Subd (a) amended effective April 16, 2020; adopted effective August 14, 2009.)*

### **(b) Annual charges**

- (1) Advisory committees are assigned annual charges by the council or an internal committee specifying what should be achieved in a given year. The council or an internal committee may amend an advisory committee's annual charge at any time.
- (2) Advisory committees have limited discretion to pursue matters in addition to those specified in each committee's annual charge, as long as the matters are consistent with a committee's general charge, within the limits of resources available to the committee, and within any other limits specified by the council, the designated internal committee, or the Administrative Director.

*(Subd (b) amended effective January 1, 2016; adopted effective August 14, 2009.)*

### **(c) Responsibilities of the chair**

Advisory committee chairs are responsible, with the assistance of staff, to:

- (1) Develop a realistic annual agenda for the advisory committee, consistent with the committee's annual charge by the Judicial Council or Judicial Council internal committee;
- (2) Present the advisory committee's recommendations to the Judicial Council;
- (3) Discuss with the Administrative Director or the Administrative Director's designee appropriate staffing and other resources for projects within the advisory committee's agenda; and
- (4) Submit recommendations with respect to advisory committee membership.

*(Subd (c) adopted effective August 14, 2009.)*

### **(d) Role of the Administrative Director**

- (1) The Administrative Director determines whether projects undertaken by council advisory bodies in addition to those specified in the council's or internal committee's annual charge to the advisory body are consistent with the body's general charge, its approved annual agenda, and the Judicial Council's strategic plan. The Administrative Director also determines whether any additional matters are within the body's authorized budget and available resources.
- (2) The Administrative Director is not bound by the recommendations of an advisory committee and may make alternative recommendations to the Judicial Council or recommend that an advisory committee's annual charge be amended.

*(Subd (d) amended effective January 1, 2016; adopted effective August 14, 2009.)*

**(e) Role of staff**

- (1) Advisory committees are assisted by Judicial Council staff. The duties of staff members include drafting committee annual agendas, managing the committee's budget and resources, coordinating committee activities, providing legal and policy analysis to the committee, organizing and drafting reports, selecting and supervising consultants, providing technical assistance, and assisting committee chairs in presenting the committee's recommendations to the Judicial Council. Staff may provide independent legal or policy analysis of issues that is different from the committee's position, if authorized to do so by the Administrative Director.
- (2) Staff report to the Administrative Director. The decisions or instructions of an advisory body or its chair are not binding on the staff except in instances when the council or the Administrative Director has specifically authorized such exercise of authority.

*(Subd (e) amended effective January 1, 2016; adopted effective August 14, 2009.)*

**(f) Review of annual agendas**

- (1) Each committee must submit a proposed annual agenda that is reviewed by the internal committee with oversight responsibility, as designated by the Chief Justice. This subdivision does not apply to the Administrative Presiding Justices Advisory Committee.
- (2) The internal committee that is responsible for oversight of the advisory committee reviews the proposed annual agenda and provides the advisory committee with an annual charge to ensure that its activities are consistent with the council's goals and priorities. The annual charge may:
  - (A) Approve or disapprove the annual agenda in whole or in part;
  - (B) Direct the committee to pursue specific projects on the annual agenda;
  - (C) Add or delete specific projects; and
  - (D) Reassign priorities.
- (3) To pursue matters in addition to those specified in its annual charge, an advisory committee must have the approval of the internal committee with oversight responsibility for the advisory committee. The matters must be consistent with the advisory committee's general charge, as set forth in the rules of court, its approved annual agenda, and the council's long-range strategic plan. The additional matters must also be within the committee's authorized budget and available resources, as specified by the council or the Administrative Director.

*(Subd (f) amended effective January 1, 2016; adopted effective August 14, 2009; previously amended effective February 20, 2014.)*

*Rule 10.34 amended effective April 16, 2020; adopted as rule 6.34 effective January 1, 1999; previously amended and renumbered as rule 10.34 effective January 1, 2007; previously amended effective January 1, 2002, September 1, 2003, August 14, 2009, February 20, 2014, and January 16, 2016.*



# California Rules of Court

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(Revised January 1, 2021)

## Rule 10.60. Tribal Court-State Court Forum

### (a) Area of focus

The forum makes recommendations to the 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.

### (b) Additional duties

In addition to the duties described in rule 10.34, the forum must:

- (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 that might appear in either court system, and the sharing of services between 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.

### (c) Membership

The forum must include the following members:

- (1) Tribal court judges or justices selected by tribes in California, as described in (d), but no more than one tribal court judge or justice from each tribe;
- (2) At least three trial court judges from counties in which a tribal court is located;
- (3) At least one appellate justice of the California Courts of Appeal;
- (4) At least one member from each of the following committees: the Access and Fairness Advisory Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Family and Juvenile Law Advisory Committee, Governing Committee of the Center for Judicial Education and Research, Probate and Mental Health Advisory Committee, and Traffic Advisory Committee; and
- (5) At least one, but no more than three, California executive branch officials responsible for tribal-related work.

The composition of the forum must have an equal or a close-to-equal number of judges or justices from tribal courts and state courts.

*(Subd (c) amended effective February 1, 2018.)*

### (d) Member Selection

- (1) The Chief Justice appoints all forum members, except tribal court judges and tribal court justices, who are appointed as described in (2).
- (2) For each tribe in California with a tribal court, the tribal leadership will appoint the tribal court judge or justice member to the forum consistent with the following selection and appointment process.

- (A) The forum cochairs will notify the tribal leadership of a vacancy for a tribal court judge or justice and request that they submit names of tribal court judges or justices to serve on the forum.
- (B) A vacancy for a tribal court judge or justice will be filled as it occurs either on the expiration of a member's term or when the member has left the position that qualified the member for the forum.
- (C) If there are more names of tribal court judges and justices submitted by the tribal leadership than vacancies, then the forum cochairs will confer and decide which tribal court judges or justices should be appointed. Their decision will be based on the diverse background and experience, as well as the geographic location, of the current membership.

**(e) Cochairs**

The Chief Justice appoints a state appellate justice or trial court judge and a tribal court appellate justice or judge to serve as cochairs, consistent with rule 10.31(c).

*Rule 10.60 amended effective February 1, 2018; adopted effective October 25, 2013.*

**Judicial Council Comment**

Tribes are recognized as distinct, independent political nations (see *Worcester v. Georgia* (1832) 31 U.S. 515, 559, and *Santa Clara Pueblo v. Martinez* (1978) 436 U.S. 49, 55, citing *Worcester*), which retain inherent authority to establish their own form of government, including tribal justice systems. (25 U.S.C.A. § 3601(4).) Tribal justice systems are an essential part of tribal governments and serve to ensure the public health and safety and the political integrity of tribal governments. (25 U.S.C.A. § 3601(5).) Traditional tribal justice practices are essential to the maintenance of the culture and identity of tribes. (25 U.S.C.A. § 3601(7).)

The constitutional recognition of tribes as sovereigns in a government-to-government relationship with all other sovereigns is a well-established principle of federal Indian law. (See *Cohen's Handbook of Federal Indian Law* (2005) p. 207.) In recognition of this sovereignty, the council's oversight of the forum, through an internal committee under rule 10.30(d), is limited to oversight of the forum's work and activities and does not include oversight of any tribe or tribal court.