



Judicial Council of California

Tribal Court–State Court Forum

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TRIBAL COURT–STATE COURT FORUM

MINUTES OF OPEN MEETING

October 26, 2023

9:00 a.m. - 4:30 p.m.

455 Golden Gate Avenue, San Francisco, CA

Advisory Body Members Present: Hon. Abby Abinanti, Co-chair, Hon. Joyce Hinrichs, Cochair, Hon. Richard Blake, Hon. Leonard Edwards (Ret.), Hon. Ana España, Mr. Christopher Haug, Hon. Joni Hiramoto, Hon. Lawrence King, Hon. Kristina Lindquist, Hon. Devon Lomayesva, Ms. Merri Lopez-Keifer, Hon. Nicholas Mazanec, Hon. April Olson, Hon. Stephen Place, Hon. Victorio Shaw, Hon. Mark Ralphs, Hon. Alison Tucher, Ms. Stephanie Weldon, Hon. Christine Williams.

Advisory Body Members Absent: Hon. April Attebury, Hon. Tara Flanagan, Hon. Winston Keh, Hon. Patricia Lenzi, Ms. Andrea Pella, Hon. Dean Stout, Hon. Joseph Wiseman.

Others Present: Ms. Vida Castaneda, Ms. Charli Depner, Ms. Audrey Fancy, Ms. Ann Gilmour, Ms. Loretta Miranda, Ms. Amanda Morris, Ms. Aviva Simon, Ms. Christy Simons.

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 9:40 am.

Approval of Minutes

The advisory body reviewed and approved the minutes of the August 10, 2023, Tribal Court–State Court Forum meeting.

DISCUSSION AND ACTION ITEMS (ITEMS 1–6)

Item 1

Welcome and Introductions

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

Hon. Joyce Hinrichs, Co-Chair, Judge of the Superior Court of California, County of Humboldt

Committee members introduced themselves to the group and approved the August 10, 2023, meeting minutes.

There were no public comments.

As part of the Co-Chair update the Cochairs discussed the status of the Forum projects related to rules and forms for discretionary tribal participation in juvenile cases not covered by the Indian Child Welfare Act and the amendments to section 7920.500 of the Government Code that will become effective January 1 of 2024 as part of AB 1756. These changes will add judges of a federally recognized Indian tribe to the definition of “elected or appointed official” for the purpose of privacy protections. Judge Abinanti also

discussed the anticipated study by the federal Government Accountability Office on the impacts of Public Law 280 on access to justice. This study is expected to begin early in 2024. Judge Abinanti encourages people to think about how and what input to provide to this study. Several Forum members volunteered to participate in discussions on this topic.

Item 2

VAWEP Updates

Presenters: Vida Castaneda, Senior Court Services Analyst, Judicial Council of California

Hon. Lawrence C. King, Chief Judge of the Morongo Band of Mission Indians Tribal Court

Merri Lopez-Keifer, (Luiseno) Director, Office of Native American Affairs, Office of Attorney General Rob Bonta

Hon. Christine Williams (Yurok), Chief Judge of the Wilton Rancheria Tribal Court

Presenters discussed that AB-44 was signed into law and will allow access to the California Law Enforcement Telecommunications System (CLETS) for qualifying tribal courts and law enforcement. The Attorneys General's office will be developing guidance materials and technical assistance for tribes wishing to participate. Final guidelines will need to be adopted by the CLETS governance committee. Forum members asked whether there would be a cost to tribes and whether there would be independent access portals for tribes or whether they would have access through the existing county access portals. Those are issues that still need to be resolved. There was discussion of the issues that tribal courts continue to experience in having their orders entered into CLETS and enforced by California law enforcement.

Under AB-3099 the Attorney General's Office provided technical assistance to 34 County law enforcement agencies that serve tribal lands. Attorney General's Office did a recent survey of tribal courts regarding issues with protection order enforcement. 52% of respondents reported a lack of compliance with the requirements of California Rules of Court, rule 5.386.

Merri Lopez-Keifer provided information about AB 44 and provided an update on the AB-3099 DOJ study. Ms. Lopez-Keifer described the two DOJ MMIP Regional Events occurring both in Northern and Southern California in 2023.

Judge Lawrence King provided a presentation on "Best Practices: Recognition and Enforcement of Tribal Restraining Orders". A group discussion about CRC [Rule 5.386](#) – allowed for local procedures to electronically file and register tribal court orders.

Judge Christine Williams lead a discussion on how tribal courts and state court counterparts can interact more with the VAWEP Committee.

Vida Castaneda provided a brief description about the "Harm Reduction and Commercial Sexual Exploitation of Children and Youth: Bench Cards" and provided each judicial officer in attendance a hard copy of the bench cards.

Item 3

Indian Child Welfare Act Updates

Presenters: *Hon. Ana L. España, Judge of the Superior Court of California, County of San Diego*

Ms. Stephanie Weldon, (Yurok) Director, Office of Tribal Affairs, California Department of Social Services, Sacramento California

Presenters gave an update on the two ICWA Inquiry cases pending before the California Supreme Court, AB 81 which is pending legislation intended to strengthen ICWA in California law, the status of the Tribal Dependency Representation Program, as well as how to use a “kin-first culture” to improve ICWA compliance. Committee members discussed some of the ongoing challenges including individuals not being aware of ancestry and tribal affiliations. Committee members discussed strategies to improve inquiry compliance including requiring declarations of due diligence, updating ICWA inquiry at each hearing, developing different sets of questions for urban and other areas in collaboration with the tribal community. Committee members also discussed whether active efforts were really being done at early stages and throughout the life of a case. Discussed the need for more and better ICWA training for attorneys representing parents and children as well as for social workers. Discussed the need for more and better data and sources of data so that courts can identify their problem areas and possible solutions to those issues.

Item 4

Strategies to Improve Cross-Jurisdictional Understanding and Collaboration addressing the Opioid Crisis

Committee members gathered in small groups and discussed strategies and best practices that are working within their jurisdictions.

Item 5

Data

Presenter: Judge Joyce Hinrichs

Judge Hinrichs discussed the work of the Data Analytics Advisory Committee. Members discussed the kinds of data they are missing and would like to have as well as possible sources of that data. One source of child welfare data will be the new California Department of Social Services CARES system which will replace the CWS/CMS system. This new system will incorporate a wider array of ICWA data elements.

Item 6

Recognition and Enforcement of Tribal Court Orders

Presenters: Hon. Richard C. Blake, (Hoopa) Chief Judge of Redding Rancheria and Hoopa Valley Tribal Courts

Hon. Alison M. Tucher, Presiding Justice of the Court of Appeal, First Appellate District, Division Three

Presenters discussed the kinds of case types that have caused issues regarding recognition and enforcement. These include exclusion order and trespass issues, traffic orders including issues like drunk and reckless driving, and child custody orders. Are these the priority areas that we still need to be working on? What are some other areas. Tribal court judges indicated that these continue to be problem areas. Sometimes individuals come on tribal lands to deal drugs. The tribes have no criminal jurisdiction over non-Indians so can only issue civil citations which are often ignored. They can't enforce these kinds of fines and fees as civil money judgments so there is nothing they can do as an effective deterrent. There was discussion of issues tribes have had with their child custody orders. The current Judicial Council form FL-580 doesn't mention tribal courts. They have been unable to get assistance from law enforcement and district attorneys when their child custody orders are ignored.

Committee members agreed to set up ad hoc working groups in these areas to explore solutions.

Item 7

Tribal Healing to Wellness Courts and Joint Jurisdiction Courts

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

Hon. Lawrence C. King, Chief Judge of the Morongo Band of Mission Indians Tribal Court

Hon. Devon Lomayesva, (Iipay Nation of Santa Ysabel) Chief Judge of the Intertribal Court of Southern California

Members provided updates on the work of their healing to wellness and joint-jurisdiction courts including expanding into new areas such as adult criminal and domestic violence issues. Some of the challenges include staffing and funding. Members discussed new memorandums of understanding for diversion into tribal prevention programs.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 4:30 p.m.

Approved by the advisory body on December 14, 2023.