

January 15, 2013 Forum Conference Call notes

1. Humboldt Superior Court Standing Order on Tribal Access to Records (see above for standing order)



ICWA WIC 827
StandingOrder.pdf.

Judge Joyce D. Hinrichs, Humboldt Superior Court Judge, presented an innovative solution to the sharing of child welfare information relating to Indian children with the children's tribes. After hearing concerns from the tribal communities in the area that the court could do more to prevent the removal of Indian children from their homes, she identified that tribal access to information about tribal children could be a solution. By giving relevant child welfare information to tribes and fostering relationships between the local child welfare agency and tribal social services, the two could join forces and provide active efforts to prevent removal. Judge Hinrichs shared the standing order with the forum, and after some discussion, the forum concluded that this local success could be promoted statewide through a legislative amendment to Welfare and Institutions Code section 827.

Next Step: Forum forms a working group to develop a legislative proposal. Staff directed to work with the Family and Juvenile Law Advisory Committee to bring the concept forward as a joint committee proposal. Judge Blake and Judge Wilson agree to present forum's legislative proposal to give tribal court access to juvenile court records at the next meeting of the Family and Juvenile Law Advisory Committee meeting on January 24th

2. Report on the 13th National Indian Nations Conference: Justice for Victims of Crime and Preconference Institute focusing on tribal court/state court forums
Judge Blake, Judge Wilson, Judge Ulloa, and Jenny described the conference, gave highlights from workshops, and shared how much they learned about the other tribal court/state court forums that exist throughout the country. The Preconference Institute was a half day session – during the morning a working group of active forums, which included California's, shared best practices and challenges to sustaining a forum. The session was open to the public for participants that wanted to hear more about the challenges and successes of tribal-state collaborations, and many were very interested in the work of the forum in California.

For more information about the conference, see
<http://www.tribal-institute.org/2012/agenda.htm>

Of significant interest to forum members is a newly enhanced & updated website with resources for forums: www.WalkingOnCommonGround.org. The website provides resources concerning Public Law 280 tribal/state court collaboration & promising practices and covers subject areas such as courts, law enforcement, detention, child welfare, and multi-agency agreements. The website features the following:

- Tribal-State agreements by topic;

- Promising Practices stories and quotes;
- Tribal-Federal Collaborations;
- Resources on the Tribal Law and Order Act;
- A listing of all federally recognized tribes, tribal websites and counties, by state;
- Interactive searchable map of agreements; and
- Jurisdictional information.

3. Forum Presentation to CA Sheriff's Association (Olin Jones and Jenny Walter)

Mr. Jones and Jenny shared the PowerPoint presentation they gave to the CA Sheriff's Association and described the reception they received. The members were pleased to learn about the forum and confirmed that tribal protective orders would not be consistently enforced unless two conditions were met: (1) the orders would need to be entered into CARPOS through CLETS and (2) the orders would need to be verified by contacting the agency that entered the order to confirm that the order was still valid and current.

The sheriffs were pleased to learn that, effective July 1, 2012, rule 5.386 of the California Rules of Court requires state courts, on request by a tribal court, to adopt a written procedure or local rule permitting the fax or electronic filing of any tribal court protective order entitled under Family Code section 6404 to be registered. Through this procedure tribal protective orders are entered into CARPOS through CLETS just like state court protective orders.

Mr. Jones agreed to take the lead in exploring how tribal protective orders could be entered into CLETS directly by the tribal court and to address the second condition, which continues to be a challenge in enforcement of tribal protective orders.

4. Informational item: First Tribal IVD Program in California to be established (Judge Abby Abinanti)

Judge Abinanti informed the members that the Yurok Tribe was working with the CA Department of Child Support to develop the first tribal IV-D program in the state. She described the inter-jurisdictional issues that would need to be addressed to facilitate the smooth transfer of child support cases from the local state court to the tribal court. After some discussion, the forum concluded a statewide rule would be necessary to address the inter-court jurisdictional questions.

Next step: Staff directed to draft a proposed rule for the forum to consider at its next conference call.

5. Rule Proposal Relating to the Administration of Psychotropic Medication

The Family and Juvenile Law Advisory Committee proposes revisions to rule 5.640 of the California Rules of Court and related forms regarding the administration of psychotropic Medication and is seeking input from the forum. After discussion of the current tribal notice provisions, the forum recommends adding notice requirements for tribes if psychotropic medication is being sought for an Indian child. Specifically, the forum recommends requiring notice to both an intervening tribe and a tribe that has not intervened but has acknowledged the child as a member of, or eligible for membership in, the tribe.

Next Step: Staff will bring the forum's recommendation forward to the Family and Juvenile Law Advisory Committee for its consideration and report back.

6. U.S. Supreme Court hears Indian Child Welfare Act case, *Adoptive Couple v. Baby Girl* (filed 1/4/13, case number 12-399)
Judge Marston presented on a critically important ICWA case. The Supreme Court granted certiorari to resolve the split between states as to (1) whether a voluntary adoption initiated by a non-Indian parent under state law may be blocked by ICWA § 1912(f) when the Indian parent did not have prior custody; and (2) whether ICWA's definition of "parent" includes a biological father without legal status as a parent under state law. See link to lower court opinion, <http://www.sccourts.org/opinions/HTMLFiles/SC/27148.pdf>
7. Family and Juvenile Law Advisory Committee seeking volunteers for a working group on safety, permanency, and wellbeing