

California Tribal Court/State Court Forum

Conference Call
October 27, 2010
12:00 p.m. to 1:00 p.m.

Present: Hon. Abby Abinanti, Hon. Richard Blake, Hon. Michael Golden, Hon. Charles Henry, Mr. Olin Jones, Hon. Dennis M. Perluss, Hon. Dean Stout, Hon. Juan Ulloa, Hon. Christine Williams and Hon. Christopher Wilson

Committee Counsel: Ms. Jennifer Walter

Staff: Ms. Ann Gilmour, Mr. Patrick O'Donnell, Ms. Anne Ronan, Mr. Courtney Tucker.

PL-280 Webinar Report Back

Forum members stated that they found the webinar useful, although for the tribal court judges the information was not new. Participants thought the format and content was helpful, and recommended similar format for future trainings.

Report Back on Riverside County Tribal Alliance 5 year Celebration

Judge Blake, Judge Golden, Justice Perluss and Ms. Vida Castaneda attended the recent meeting of the Riverside County Tribal Alliance (RCTA) marking the five year anniversary of the RCTA. There were over 60 people in attendance, including representatives from the Torres Martinez Tribe and the Morongo Band of Mission Indians, State legislators, media, law enforcement, county probation, county and tribal social service agencies, the local Court Appointed Special Advocates program, and judges from the Riverside Superior Court. The event was impressive in that participants reported benefits that flowed from the relationships they forged discussing issues of mutual concern to the state courts, tribal courts, county agencies, and tribal agencies. Of the current RCTA members, only 3 were members from the initial meetings of the RCTA five years ago, and yet their work appears to be vibrant, on-going, and sustainable. Statewide forum members discussed the importance of creating those types of relationships at the state level, and supporting such local collaborative relationships.

Report Back on National Association of Women Judges Conference

Ms. Jenny Walter reported on the workshop session, entitled *Ensuring Safety for Native American Victims of Domestic Violence*, and distributed the materials from that session.

Agenda Topics Report Back

Ms. Walter thanked Judge Wilson for submitting agenda topics for future meetings. Judge Wilson presented the pressing need for the development of local rules and protocols to address where state and tribal court jurisdiction overlap. Judge Wilson specifically raised the following legal areas:

1. Domestic Violence Prevention Act petitions filed in state court while there are ongoing custody or dissolution proceedings in tribal court (or vice versa);

2. Guardianship cases involving transfer between tribal and state court, the state court's recognition of tribal custody orders, and the state court's receipt of information relating to the existence of Indian custodians; and
3. Juvenile dependency and delinquency cases relating to the allocation and sharing of jurisdiction between tribal court and state court, tribal access to "juvenile case files", including information in the county social service file that predates the filing of a juvenile court petition.

Judge Blake reported that these areas are also of priority concern to the Northern Coalition of Tribal Courts. Other tribal court judges agreed, as did state court judges. After some discussion, the forum members agreed to form a working group to begin helping one another develop such local rules and protocols. In addition to developing local rules/protocols, the working group will identify where statewide solutions may be more appropriate and recommend statewide solutions. Judge Wilson and Judge Henry both indicated a strong interest in being part of the working group.

Action Item: Staff will solicit volunteers for the working group in the next forum email. The working group will report back to the full forum at its next forum meeting.

Enforcement of Orders Other than Protective Orders – Proposed Legislation

Staff presented the process undertaken in revising the draft legislation. Forum members discussed whether the scope of the proposal should apply to civil orders involving non-money judgments and whether language of the proposal should reflect reciprocity, i.e. mutual recognition and enforcement of tribal and state court orders.

Several tribal court judges acknowledged the need to address traffic and motor vehicle issues on reservations. When the discussion turned to housing issues, however, several tribal court judges cautioned that such legislation would be very controversial. They stated that they would have to get direction from their tribal governments on the issue of whether or not the state court process should be used to enforce tribal court orders for ejection or banishment from tribal lands. Several tribal court judges reported that where this is occurring it is because there are intergovernmental agreements between the Tribes and local law enforcement to permit local law enforcement to come onto the reservation to enforce these types of tribal orders.

While there was consensus that the proposal apply to all civil orders in concept (except protective orders, child support orders, and Indian Child Welfare Act cases), the details of how that might work across case types required more work and vetting both by this forum and more broadly by the tribal community.

Forum members agreed to form a working group to address the questions of scope and reciprocity and to revise the draft legislation before the forum recommends its presentation to the Judicial Council's Civil and Small Claims Advisory Committee. Justice Perluss volunteered to co-chair the working group.

As a result of this discussion, Ms. Walter recommended, and the forum members agreed, to begin consultation on the legislative proposal with the broader tribal communities in accordance with the forum's communication plan and to relay all tribal input to the working group.

Action Item: Staff will solicit volunteers for the working group in the next forum email. The working group will report back to the full forum at its next forum meeting. Staff recommends that Judge Marston

and Justice Perluss co-chair the working group. Forum members to begin consultation on the legislative proposal in accordance with the communication plan.

Communication Plan

Forum members revisited the communication plan and considered whether and how individuals, who are not forum members, could participate in the forum. After some discussion about the purpose of the forum--- to improve the working relationship between its members and enabling the courts of each to issue and enforce their respective orders to the fullest extent allowed by law— members agreed that it was important to both seek input, as per the communication plan, and to establish a mechanism for individuals to come to the forum and provide input.

After some discussion, forum members reached consensus that:

1. Forum telephone conference calls are limited to forum members;
2. Members of the public are welcome to present information, relevant to the forum's charge and scope of work, at one of the two in-person forum meetings held each year;
3. The public may submit agenda items to staff in advance of forum meetings, and their items will be heard at the next in-person meeting of the forum
4. Members of the public are welcome to attend in-person forum meetings.

Action Item: Forum to vote on proposed public access policy at next meeting.

Educational Topics

Forum members reviewed the following educational topics identified by staff and agreed that they were all topics of interest to members. (1) California tribal history; (2) legal history of tribal systems; (3) tribal justice systems- an overview or specific tribal justice systems in California; (3) Indian civil rights; (4) peacemaking and other traditional native dispute resolution processes; (5) tribal law enforcement access to national and state criminal information databases; (6) achieving best outcomes for Indian children and reducing; (7) tribal child welfare programs— tribal CASA; direct tribal funding under Title IV-E of the Social Security Act and tribal child welfare systems; (8) joint tribal-state jurisdiction in dependency cases: Minnesota model-- Leech Lake Tribal Court and the Minnesota's Ninth Judicial District Courts for Cass and Itasca Counties; (9) joint protocols/agreements/rules of court regarding juvenile, guardianship, and domestic violence cases; and (10) HOPE card (Montana) and Project Passport- both designed to improve the recognition and enforcement of protection orders within and between States/Tribes.

Adjourned

The meeting adjourned at 1 p.m.

Next Meeting: December 15, 2010

Proposed Topics

1. Report Back: Southwest Regional Tribal Court State Court Meeting
2. Report Back: National Center for State Courts Meeting
3. Report Back: Working Group on Legislative Proposal (Mutual Recognition and Enforcement of Civil Judgments)
4. Report Back: Working Group on Local Rules/Protocols (Focus: Domestic Violence and Indian Child Welfare Act Cases)

(Note: November meeting cancelled due to scheduling conflict with the Southwest Regional Tribal Court State Court Meeting)