

# CALIFORNIA TRIBAL COURT–STATE COURT FORUM

June 2016

## Educational Activities

### Background

With grant funding, the California Judicial Council staffs the California Tribal Court–State Court Forum, a coalition of tribal and state court judges who come together as equal partners to address issues common to both 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. As an advisory committee to the California Judicial Council, 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.

The forum is comprised of 30 members—28 judges, 1 former judge, 1 volunteer judge (retired), and 1 non-judicial member. The members of the forum include 13 tribal court judges, nominated by their tribal leadership, representing 16 of the 23 tribal courts currently operating in California; the director of the California Attorney General’s Office of Native American Affairs; the tribal advisor of the California Governor; and 14 state court judicial officers, including the chairs or their designees of the California Judicial Council’s Family and Juvenile Law Advisory Committee, Access and Fairness Advisory Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Probate and Mental Health Advisory Committee, and Traffic Advisory Committee, representatives of the local courts in counties where many of the tribal courts are situated, and a retired judge.

In response to the forum’s recommendations to revise judicial benchguides and expand judicial education programming materials to include information on federal Indian law and the interjurisdictional issues that face tribal and state courts, the state judicial branch applied for grant funding to develop curricula for judges on federal Indian law as it applies to all civil and criminal cases, provide training, and post educational resources. This has resulted in a number of informative educational programs and projects:

### **Educational Programs: In-Person Events**

- On June 17, 2011, convened educational sessions for judges on the History of California Indians and Dynamics of Domestic Violence in Native Communities, Structure of Tribal Governments, Tribal Court Development in California, and Models of Tribal Court State Court Collaboration.

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- On October 14, 2011, addressed the California Indian Law Association Conference on the work of the forum and the legislative proposal to recognize and enforce tribal civil orders.
- On October 25, 2011, addressed the National American Indian Judges Association Conference on the work of the forum and the electronic noticing initiative.
- In December, 2011, conducted five sessions at the annual Beyond the Bench Conference:
  - *Tribal Court Live: Understanding How Tribal Courts Work and How to Work With Them*  
This mock trial led by Chief Judge Claudette White of the Quechan Tribal Court involved a marital dissolution case and explored issues of child custody, division of property, and protective orders. It examined some of the jurisdictional issues that may arise in tribal court and between tribal and state courts and how best to address and resolve them.
  - *Tribal Customary Adoption: Lessons Learned*  
This session discussed experiences in implementing California's tribal customary adoption law since it went into effect on July 1, 2010. Panelists included participants in a tribal customary adoption case in San Francisco that recently finalized. We heard perspectives on tribal customary adoption (TCA) from the tribal attorney, county counsel, minor's attorney, social worker, and the attorney for the adoptive parents, and the panelists discussed the challenges they faced in implementing TCA as a permanent plan.
  - *Recognition and Enforcement of Tribal Protective Orders*  
In this session, tribal and state court judges discussed jurisdiction on tribal lands and in tribal court, federal and state law concerning enforcement and recognition of tribal court protective orders, existing procedures for the mutual recognition and enforcement of protective orders, and proposed changes to the California Rules of Court.
  - *Child Support and Tribal Communities: Myths and Realities*  
With the growing number of tribal courts, tribal TANF agencies, tribal child support agencies, and the growth of the 107 recognized tribes in California as major employers, tribal/state court jurisdiction in general and child support matters in particular have become an emerging area of the law affecting many families in California. This session brings together a tribal judge, a local child support attorney, and the State Department of Child Support Services Tribal Liaison for a discussion of where we are jurisdictionally and collaboratively, and where we hope to be in the future.
  - *ICWA for Minors' and Parents' Attorneys*  
The Indian Child Welfare Act (ICWA) establishes unique procedural and substantive requirements for dependency proceedings involving Indian children. Although most of the responsibility for complying with the requirements of ICWA fall to the child welfare agency and the courts, appointed counsel for minors and parents have an important role

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to play as well. Learn how to use ICWA to advance your clients' interests and understand the role that you as counsel play in protecting your clients' rights under ICWA.

- On December 14, 2011, participated in the Leadership Forum convened by the state judicial branch. Chief Justice Tani G. Cantil-Sakauye, presiding judges and court executive officers, and members of the Judicial Council's Family and Juvenile Law Advisory Committee, the Collaborative Justice Advisory Committee, the Domestic Violence Task Force were among the attendees. This event offered an opportunity for tribal and state leaders to meet, forge relationships, and learn from one another. The Leadership Forum identified concrete tools and collaborative strategies to respond to the needs of those most vulnerable in the current economic climate: foster children and their families; families struggling with homelessness and poverty, mental illness, substance abuse, divorce, and custody issues; the self-represented; communities dealing with gangs and other issues of violence; and those reentering communities and families, such as returning veterans or offenders under community supervision or parole.
- On June 18, 2012, participated in a plenary panel at the California rural judges' conference, the "Cow County Institute," addressing assessments of lethality and risk in cases involving domestic violence.
- On August 30, 2012, presented an overview of the forum's activities to the California Judicial Council at its issues meeting.
- On September 14, 2012, presented a workshop, entitled Public Safety Crisis in Indian Country: What You Can Do? at the California Partnership to End Domestic Violence Conference in San Diego.
- On September 20, 2012, presented on ICWA Best Practices and Court Improvement from a Government to Government Prospective and participants, who were tribal and state court judges, discussed current ICWA practices and potential solutions to current issues.
- On October 8-9, 2012, in collaboration with the National Judicial College, convened a two-day judicial symposium hosted by the Shingle Springs Band of Miwok Indians Rancheria. Approximately 50 tribal and state court judges participated.
- On December 5, 2012, participated in the Tribal-State Court Collaboration working group meeting convened by the Tribal Law and Policy Institute as part of the 13th National Indian Nations Conference: Justice for Victims of Crime at the Agua Caliente Reservation.
- On January 16, 2013, met with legal service providers to share information about serving tribal communities.
- On September 13, 2013, convened a cross-cultural court exchange on Hoopa Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- October 2, 2013, presented to approximately 60 law students on tribal/state collaboration and the work of the forum at the University of San Francisco Law School

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- On October 10, 2013, participated on a panel to share information on effective tribal/state collaboration at Stanford University.
- On October 11, 2013, presented on the work of the forum and staff also presented a one day course on developing a tribal court security and safety plan, focusing on security policies and procedures as well as technology designed to increase the safety of those who work in and use courts at the 44th National Tribal Judicial and Court Clerks' Conference organized by the National American Indian Court Judges Association.
- On October 13, 2013, presented an overview: a framework for understanding and working with Indians and tribes at the California State Bar and Legal Aid Association of California.
- On October 29, 2013, presented on effective tribal/state collaboration at the Michigan's Grand Traverse Region Tribal-State Judicial Forum.
- On November 14, 2013, presented on effective tribal/state collaboration at the Arizona Tribal-State Roundtable.
- On December 3, 2013, presented on tribal courts and child welfare at the annual Beyond the Bench Conference.
- On February 27, 2013, convened a cross-cultural court exchange on Quechan Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- On May 29, 2013, convened a cross-cultural court exchange on Yurok Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- On February 4, 2014, provided an overview of the work of the forum to the members of the Violence Against Women Education Project and invited the judicial members to attend the forum's educational program on March 4, 2014 in San Francisco.
- On March 4, 2014, the forum convened an educational symposium, attended by over 60 tribal and state court judges, law enforcement officers, forum members and others. Panel topics included: Access to Justice—Promoting Structural Reforms and Exploring Racial Identity; Child Welfare and Adoptive Couple v. Baby Girl 133 S.Ct. 2552 (2013) (Baby Girl Veronica Case); P.L. 280 and Domestic Violence; Tribal-State Collaborations in Civil, Criminal, and Family Cases; and the Tribal Law and Order Act.
- On March 6, 2014, presented on Improving Access to Tribal and State Courts in Domestic Violence Cases—Confronting Ethical Issues and Unveiling Differences at the Family Law and Self Represented Litigants Conference in San Francisco.
- On April 24, 2014, presented on effective tribal/state collaboration at the Alabama-Coushatta Tribe of Texas 4<sup>th</sup> Annual Judicial Symposium.
- On May 14-16, 2014, conducted two sessions at the Cow County Judges Conference in Rancho Cordova: (1) Jurisdiction on tribal lands and (2) Indian Child Welfare Act: updates and hot topics.

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- On May 21, 2014, served as resource faculty during the session on Full Faith and Credit at the Domestic Violence Institute.
- On May 29, 2014, presented on tribal justice systems and inter-cooperation between tribal justice systems and the state courts in California at the Law and Society Association's Annual Conference Program: Law and Inequalities: Global and Local in Minneapolis, Minnesota.
- On July 15, 2014, convened a cross-cultural court exchange on Karuk Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- On August 5, 2014, provided an educational program, entitled Resolving Issues of Mutual Concern to Tribal and State Courts, which was held in the San Francisco office and broadcast to the Burbank and Sacramento offices. Topics: California's tribal communities, principles of tribal sovereignty, California's tribal courts, jurisdiction in Indian country, and the forum.
- On August 14, 2014, presented on effective tribal/state collaboration at the Mississippi Band of Choctaw Indians Tribal/State Forum.
- On September 12, 2014, convened a cross-cultural court exchange on Bishop Paiute Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- December 5, 2014, education for the Los Angeles Superior Court. The training covered the California Indian history; the background to ICWA; ICWA legal requirements and challenges in California. There were 209 attorneys and 17 judicial officers in attendance. Ann Gilmour and Vida Castaneda were staff presenters at this training.
- February 26, 2015, Bay Area listening session convened by the California Department of Social Services in cooperation with the forum. Representatives listened to the community's concerns and issues affecting the urban Indian population.
- June 2, 2015, presented to the State Bar of California Committee of Bar Examiners and the deans of all law schools in California. The topic was including federal Indian law as part of the state bar examination.
- July 27, 2015, convened meeting of law enforcement representatives to develop jurisdictional tools to improve recognition and enforcement of tribal protection orders.
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- January 6, 2016, convened a cross-cultural court exchange on Yurok Tribal lands to discuss and problem-solve together local court concerns relating to child support cases.
- February 1, 2016, presented to the Tribal Subcommittee of the Conference of Chief Justices in Monterey. The workshop promoted projects that enhance collaboration and communication with tribal courts.
- March 15, 2016, presentation and policy discussion about recognition and enforcement of protection orders convened by the California Department of Justice (CA DOJ). In attendance

were representatives from U.S.D.OJ, CA DOJ, California Sheriffs Association, Tribal Police Chiefs Association, Tribal Court-State Court Forum, and others. The purpose of the meeting was to advance the policy goal of achieving compliance with federal and state laws governing full faith and credit in the area of domestic violence so that public and officer safety is not compromised. Approximately forty participants attended this meeting.

- April 8, 2016, convened a cross court educational exchange at Hopland for over sixty participants on behalf of the Mendocino Superior Court and the Northern California Intertribal Court System. The focus was domestic violence prevention and child welfare.
- April 28, 2016, forum judges participated in a meeting convened by the National Council of Juvenile and Family Court Judges in North Carolina to develop resources to address ICWA and domestic violence cross-over issues in Indian country.

### **Educational Projects: Curriculum and Benchguides**

- Developed curriculum on federal Indian law relating to civil and criminal jurisdiction in a Public Law 280 state for state court judges, with updates to be drafted as needed; this curriculum has been used to teach workshops at Beyond the Bench, the Cow County Rural Judges Institute, and a forum webinar. To view the curricula and webinar online, visit [www.courts.ca.gov/8710.htm](http://www.courts.ca.gov/8710.htm) and [www.courts.ca.gov/14851.htm](http://www.courts.ca.gov/14851.htm).
- Developed and distributed training video for judges with courtroom and noncourtroom scenarios that raise questions about cross-jurisdictional issues between state and tribal courts in a range of areas, including domestic violence. To view these training videos, see the following links:  
[Guardianship](#)  
[Judge to Judge Communication](#)  
[Juvenile Court Jurisdiction](#)  
[Traffic Stop Jurisdiction](#)  
[Tribal Court Trespass](#)  
[Tribal Protective Order, Court](#)  
[Tribal Protective Order, Street](#)
- Completed curriculum for tribal advocates on domestic violence and how to navigate the state court system. [www.courts.ca.gov/documents/TribalAdvocacyCurriculum.pdf](http://www.courts.ca.gov/documents/TribalAdvocacyCurriculum.pdf)
- Completed revisions to the Child Support Benchguide and the Child Custody and Visitation Benchguide and completed new chapter for the revised Native American Resource Guide.
- Published Judges Guide to Tribal Communities and Domestic Violence. [www.courts.ca.gov/documents/Tribal-DVBenchguide.pdf](http://www.courts.ca.gov/documents/Tribal-DVBenchguide.pdf)
- Provided expertise in the preparation of the statutorily mandated report on tribal customary adoption from the Judicial Council to the State Legislature. [www.courts.ca.gov/documents/Lr-Tribal-Customary-Adoption-Report\\_123112.pdf](http://www.courts.ca.gov/documents/Lr-Tribal-Customary-Adoption-Report_123112.pdf)

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- Incorporated federal Indian law into the curriculum for judges on *nuts and bolts* course and the *ethics and self-represented litigants in domestic violence cases*.
- Completed Judicial Toolkit on federal Indian law. It assists new and experienced judges in cases in general and specifically in cases involving domestic violence by providing easy access to law and other resources. These resources include links to federal law, cases, publications, online courses, video presentations, and other resources relevant to handling cases that cross jurisdictional lines between a tribal and state court.  
<http://www.courts.ca.gov/27002.htm>
- Completed Judicial Toolkit on federal Indian law- domestic violence.  
<http://www.courts.ca.gov/27542.htm>
- Published Tribal Elder Abuse Benchguide.  
[http://www.courts.ca.gov/documents/Elder\\_Abuse\\_Tribal\\_Communities.pdf](http://www.courts.ca.gov/documents/Elder_Abuse_Tribal_Communities.pdf)
- Published Tribal/State/Federal Court Administrator Toolkit  
This toolkit encourages cross-court site visits and to facilitate shared learning among local tribal, state, and federal courts in California. The toolkit is endorsed by the following groups: California Court Clerks Association, California State-Federal Judicial Council, the California Tribal Court Clerks Association, the California Court Executives Advisory Committee, the National Judicial College, and the Tribal Court–State Court Forum.  
<http://www.courts.ca.gov/documents/courttoolkit-tribalstatefederal-adminclerks.pdf>

### Ongoing Educational Activities

- [S.T.E.P.S to Justice— Child Welfare](#): State/Tribal Education, Partnerships, and Services— Information for Tribal Court and State Court Judges. The brochure describes local educational services and other technical assistance for tribal and state court judges.
- [S.T.E.P.S. to Justice- Domestic Violence](#): State/Tribal Education, Partnerships, and Services—Information for Tribal Court and State Court Judges. The brochure describes local educational services and other technical assistance for tribal and state court judges.
- Clearinghouse of resources for local courts on (1) forum activities; (2) ICWA services; (3) family violence; (4) tribal communities of California; (5) tribal justice systems, including an up-to-date directory of tribal courts searchable by tribal court or county name; and (6) tribal/state collaborations nationally and in California. (See the tribal/state programs page on the California Courts website at [www.courts.ca.gov/programs-tribal.htm](http://www.courts.ca.gov/programs-tribal.htm).)

### For More Information

Contact: Jenny Walter, Counsel and Supervising Attorney, Tribal Court–State Court Forum, 415-865-7687, [jennifer.walter@jud.ca.gov](mailto:jennifer.walter@jud.ca.gov)

