



# JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

[www.courts.ca.gov/forum.htm](http://www.courts.ca.gov/forum.htm)  
[forum@jud.ca.gov](mailto:forum@jud.ca.gov)

## TRIBAL COURT-STATE COURT FORUM

### MINUTES OF OPEN MEETING

June 9, 2016

8:30am -5:00pm

In Person

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**Advisory Body  
Members Present:**

*Hon. Abby Abinanti, Co-chair, and Hon. Dennis M. Perluss, Co-chair, Hon. April Attebury, Hon. Leonard Edwards, Hon. Mark Juhas, Hon. Patricia Lenzi, Hon. Lester Marston, Hon. Mark Radoff, Hon. Sunshine Sykes, Hon. Juan Ulloa, Hon. Claudette White, Hon. Christopher Wilson, Hon. Joseph Wiseman, and Hon. Zeke Zeidler*

**Advisory Body  
Members Absent:**

*Ms. Jacqueline Davenport, Hon. Gail Dekreon, Hon. Michael Golden, Hon. Cynthia Gomez, Mr. Olin Jones, Hon. Suzanne Kingsbury, Hon. William Kockenmeister, Hon. Anthony Lee, Hon. David Nelson, Hon. John Sugiyama, Hon. Allen Sumner, Hon. Christine Williams and Hon. Sarah Works*

**Others Present:**

*Ms. Natasha Anderson, Mr. Sam Barry, Hon. Richard Blake, Ms. Nikki Borchardt Campbell, Ms. Vida Castaneda, Ms. Lisa Cook, Ms. Sylvia Deporto, Mr. Frank Dominguez, Ms. Sheri Fremont, Ms. Nicole Garcia, Mr. Jerry Gardner, Professor Carole Goldberg, Ms. Ann Gilmour, Mr. Brian Hebert, Mr. Ricardo Hernandez, Hon. Jim Humes, Dr. Carrie Johnson, Hon. Lawrence King, Mr. Michael Newman, Ms. Mary Trimble Norris, Ms. Delia Parr, Hon. Amy Pellman, Ms. Mary Jane Risling, Mr. Sheldon Spotted Elk, Ms. Lauren Van Schilfgaarde, Ms. Jennifer Walter and Ms. Kelly Winston.*

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### OPEN MEETING

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**Call to Order and Roll Call**

The co-chairs called the meeting to order at 8:30 am

**Approval of Minutes**

The committee approved the April 14, 2016 minutes.

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### DISCUSSION AND ACTION ITEMS (ITEMS 1-8)

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**Item 1**

**Invocation**

At the request of Judge Abby Abinanti, Judge Patricia Lenzi opened the meeting with a brief personal introduction and invocation as follows:

I am of the Wolf Clan and a member of the St. Regis Mohave Tribe. My great grandmother was a clan mother, and her great grandfather was a traditional chief. Our clan mothers choose the traditional chiefs. I thank you and apologize for stepping over

anyone else that may feel that they may be more appropriate to give this opening prayer; but I've been asked, so I am honored to speak.

Creator, thank you for allowing us to gather together to learn and work together. This is a group that has tried very hard to make things better for tribes, courts and for all people in each of our justice systems. Because we come together, we are able to work and improve the lives of everyone we touch. I want to share a thought that someone once gave me during an invocation—we all have soft heads and open hearts. None of our heads are so hard that we cannot accept new information and none of our hearts are so closed that we cannot open them to new information and new ways of thinking and working. So I thank you all and ask that we all keep our heads soft and our hearts open for this day.

## **Item 2**

### **Welcome and Introductions**

Justice Dennis Perluss and Judge Abby Abinanti thanked Judge Lenzi, welcomed participants, and asked them to take notes in their workbooks. Justice Perluss explained that member feedback in these workbooks helps inform forum priorities and, in particular, the statewide roundtables and the federal court improvement program focusing on the Indian Child Welfare Act.

## **Item 3**

### **Session 1: Forum Member Project Updates**

#### **Educational Projects**

Judge Abinanti described three of the forum's current educational projects: (1) collaboration with the California Chief Justice's Power of Democracy Steering Committee to develop a civic learning opportunity for native and nonnative youth to learn about local issues in Humboldt and Del Norte Counties; (2) collaboration with the Center for Judicial Education Research (CJER) Curriculum Committee to incorporate the forum's Federal Indian Law Toolkit into the existing CJER online toolkits; and (3) collaboration with independent filmmaker on a documentary, *Tribal Justice in California*.

#### **Cross Cultural Exchanges—Child Support and Domestic Violence**

##### *Yurok and Humboldt- Child Support*

Judge Abinanti described these exchanges and how they model the collaborative relationships among tribal and state court judges at a local level and foster partnerships among tribal and non-tribal agencies and service providers. Through these exchanges, which are judicially convened on tribal lands, participants identify areas of mutual concern, new ways of working together, and coordinated approaches to enforcing tribal and state court orders. Judge Abinanti and Judge Wilson described the recent exchange at Klamath, which focused on child support and brought together judges from Humboldt, Del Norte, and Yurok courts, as well as representatives from the statewide Department of Child Support Services, the local tribal and county child support services, and other partners. Judge Abinanti described how simply getting everyone together to

open lines of communication was all that was needed. Before the exchange, case transfers from state court to tribal court had virtually stopped. During the exchange, because participants began to understand one another and the different court and agency processes, they were able to identify and fix problems. After the exchange, everyone experienced success—the smooth transfer of cases from state court to tribal court, the provision of services to noncustodial parents, and the resolution of paternity and tribal membership issues. Judge Abinanti underscored the difference between tribal court and state court: the tribal court can take the extra time to engage and understand families. She described how her tribal court hears from parents and extended family members in child support cases—a grandmother may offer to babysit, a father may provide wood or fish in lieu of monetary support, and the whole family can discuss and resolve more than the narrow legal issues of child support.

*Cahto Tribe, Coyote Valley, Hopland, and Manchester Point Arena & Mendocino—Domestic Violence*

Judge Joseph Wiseman described the exchange at Hopland convened by the Mendocino Superior Court and the Northern California Intertribal Court System. Participants included court representatives and local, county, and tribal professionals who work in the fields of child welfare, juvenile and criminal law, education, mental health, probation, social services, victim and other supportive services. He described how the event brought these stakeholders together to discuss services for tribal members and their families impacted by domestic violence. Participants discussed topics such as tribal courts, the recognition and enforcement of protection orders, and collaboration among law enforcement and court systems to improve offender accountability and the provision of culturally appropriate services. Unlike the experience in the rest of the state, Judge Wiseman remarked that his protection orders are promptly entered into the California Department of Justice database by the local state court, which is one of four state courts (Humboldt, Kern, Mendocino, and Riverside) that has direct access to the California Law Enforcement Telecommunications System. Judge Wiseman encouraged forum members to use the services of S.T.E.P.S. to Justice offered by the Judicial Council's tribal/state programs, which enabled him and Judge David Nelson to convene the exchange.

*Yurok and Humboldt—Child Welfare, Drug Court, and Domestic Violence*

Judge Christopher Wilson described how tribal and nontribal agencies in Humboldt County are working together to do a better job of early identification of children with Indian ancestry and directing funds and services to meet their educational and other needs. He also described the dependency drug court that he and Judge Abinanti are creating that will hear cases in the more rural areas of the county where the population is severely impacted by drugs. Together, they are addressing express and implicit cultural bias, improving public trust and confidence in the courts, and providing more culturally appropriate services for offenders and their families. During the child support exchange, Judge Wilson reported that participants were able to overcome distrust, bridge the disconnect between state and tribal courts, and identify policy recommendations, such as language changes to the rule of court that would remove subjectivity and opportunity for cultural bias. Since the exchange, the courts have convened subsequent meetings, incorporated a

cultural component into both the Yurok and non-Yurok domestic violence programs, and defined mandatory community service hours to include reconnecting and engaging with children.

*Quechan Tribe and Imperial—Child Welfare and Domestic Violence*

Judge Claudette White and Judge Juan Ulloa described how the cross-court cultural exchanges and their participation statewide on the forum has had positive effects locally. They shared stories from the early days when local law enforcement refused to enforce the tribal court's protection orders. Judge Ulloa described one particular incident when Judge White called him from the local sheriff's office and a three-way conversation ensued during which the officer acknowledged that Judge White was a judge that he held an order with her signature, and yet he would not enforce it. Judge Ulloa and Judge White remarked that their tribal-county-court relations had come a long way since this first encounter with law enforcement. Judge White described the very first exchange they convened, with the assistance of the Tribal/State Programs staff, and how it has served as a blueprint for further meetings and trainings. They have witnessed these exchanges not only educating, but also changing attitudes and behavior. Recently, Judge Ulloa and Judge White convened a training to address topics such as child protection reporting, recognition and enforcement of protection orders, cyberbullying, and human trafficking. As part of S.T.E.P.S. to Justice, Tribal/State Programs staff assisted with this training. As a result of the most recent exchange, the county domestic violence presenters are helping the Quechan Tribe create a domestic violence response team.

**Tribal Court Access to California Restraining and Protection Order System and Jurisdictional Tools**

Judge Patricia Lenzi, Justice Dennis Perluss, and Jenny Walter reported on the meeting of March 16, 2016, convened by the California Attorney General's Office, to address lack of recognition and enforcement of tribal protection orders in violation of state and federal full faith and credit statutes. Representatives from the U.S. Department of Justice, the California State Sheriffs Association (CSSA), California Indian Legal Services (CILS), the Yurok Tribal Court, and tribal advocates participated. Despite agreement on the law, the position of California DOJ and CSSA is that law enforcement, as a practical matter, will not recognize or enforce any protection order, tribal or nontribal, unless it is in the California Restraining and Protective Order System (CARPOS), which can be viewed through the California Law Enforcement Telecommunications System (CLETS). Despite the general support from the groups represented at this meeting, no solutions were offered to give tribal courts direct access to CLETS to enter their orders into CARPOS. In a follow-up to this meeting, the forum co-chairs sent a letter to the meeting organizers recommending policy changes. Specifically, they recommended that the California Attorney General, in collaboration with CSSA, reaffirm that federal and state laws require an officer enforce a tribal protection order whether or not it is registered in, or verified through, CARPOS or another database. Such a policy statement should also reassure officers that state law provides for immunity from civil liability for good faith enforcement of tribal protection orders that are regular on their face. They also recommended that, since tribal court access to statewide and federal databases is critical to achieve victim and officer safety, tribal courts should be given this access to enter their orders. Some potential solutions may be a legal opinion

or letter by the California Attorney General authorizing access, a technological advance that creates a firewall so orders can be entered but other material not read by tribal courts, or a pilot project through the U.S. Department of Justice to permit access to the federal database.

After some discussion about the feasibility of a legislative solution, Justice Humes suggested that a California DOJ bulletin might be the appropriate vehicle for making these type of statewide policy interpretations and announcements.

Delia Parr, of CILS, explained that the legislative interpretation that tribes are not public agencies means that tribes in California that operate their own title IV-E programs are not able to access the DOJ database to conduct background checks on members in potential homes for Indian children. This topic will be placed on the agenda for the next meeting so that forum members could learn more about the partnership between DOJ and the California Department of Social Services to address this problem.

Ms. Walter updated the group on steps taken since the March 2016 meeting. The California DOJ is pursuing whether the Sycuan Tribal Council will approve its Sycuan Tribal Police Department to enter tribal protection orders for any California tribe that asks. This solution is still a workaround and, according to CILS, not all tribes will be willing to share their orders with the Sycuan Tribal Police Department. The California DOJ, CILS, CSSA, and Peace Officer Standards and Training have approved the jurisdictional tools that the forum developed, and CSSA has mailed them to their membership. These [tools](#) are available as part of the e-binder and are posted to the forum's website.

#### **SB 406**

Judge Mark Radoff described SB 406 and explained that it will sunset on January 1, 2018 if the Legislature does not extend it. The forum, in collaboration with U.C. Davis School of Law, is conducting a study to support a legislative proposal to lift the sunset and expand the scope of the bill to civil judgments beyond money judgments. Judge Radoff reviewed the summary of the survey responses, noting that more than 70% of the state court judges answered the survey, whereas only 30% of tribal court judges answered the survey, and only three respondents answered the practitioner survey. Judge Radoff directed members to their meeting materials for the summary of the survey responses and urged his tribal court colleagues to help increase the response rate.

Brian Hebert, executive director of the California Law Revision Commission (CLRC), described CLRC and its limited role in studying the standards of recognition in SB 406. He explained that the commission works in areas expressly authorized by the Legislature and has issued a [tentative recommendation](#). He encouraged forum members to submit public comments before August 1, 2016.

## Break

### Item 4

#### Session 2: Indian Child Welfare Act (ICWA) Updates

##### ICWA—Federal Regulations, Federal Compliance, and Cases

Ann Gilmour introduced the topic by describing the interplay between the federal law, the federal regulations, and California's state statutes codifying ICWA. She highlighted that many of the challenges to ICWA in California and other states involve cases where the child has no connections to his or her tribe.

Judge Leonard Edwards reported that ICWA is under attack by a number of critics. The Goldwater Institute and others have brought lawsuits in five different states claiming that ICWA is unconstitutional because it is based on race, rather than political status. Numerous recent editorials favor the adoptive families and not the Native American families of origin, citing bonding and attachment with the first non-Native family where the child was placed. What we are experiencing, Judge Edwards explained, is the continuation of the same historical pressure that existed when ICWA was first enacted. It started with a trust relationship. The federal government promised to protect Indian children. Nevertheless, Indian children were removed from their family homes and placed in group homes and with non-Indian families. The government wanted to assimilate Native Americans and took their children. In 1966, under the Indian Adoptive Act, the government placed large numbers of Native American children in white homes believing that this was best thing for them. Congress took testimony for a number of years and heard the toll this had taken on tribal community after tribal community, understanding that these policies advanced cultural genocide. Congress determined that this injustice must end and enacted ICWA. However, it was not until 2001 that the director of the Child Welfare League of America apologized for its role in the removal of large numbers of Indian children from their families and tribes. Today, ICWA is at risk because the same historical pressures exist.

Judge Edwards described his research interviewing many Native American adults who report the negative effects of growing up without their cultures. They describe growing up angry and depressed because they knew they were different, but did not know why. They knew they might be loved, but love does not provide identity. In this way, they all describe suffering from what is termed split feather syndrome<sup>1</sup> growing up different in an inhospitable world.

#### [ICWA California Department of Justice Taskforce Report \(Task Force Report\)](#)

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<sup>1</sup> The term "Split Feather" refers to adult Indians, who were expatriated (adoptees, foster children) from their homes and cultures as children and placed in non-Indian homes. Since there are no statistical data to determine the exact parameters of the Split Feather Syndrome, it is assumed that the term "Split Feather" would apply to any individual who suffers a particular set of psychological, social, and emotional disabilities directly related to the experience of expatriation. [http://www.nativecanadian.ca/Native\\_Reflections/split\\_feather\\_syndrome.htm](http://www.nativecanadian.ca/Native_Reflections/split_feather_syndrome.htm)

Mr. Michael Newman reported that in November 2015, the California Department of Justice's Bureau of Children's Justice (BCJ) established the Task Force to learn from tribal communities their experience with ICWA compliance in juvenile dependency cases. The Task Force members included seven tribal co-chairs and one tribal court judge who met regularly and gathered information and data statewide.

Judge Abinanti and Ms. Parr described the report highlights. They emphasized that noncompliance with both procedural and substantive protections of ICWA was reported in every county in California. They reported on the following findings:

- Stage of the Case Where Most Noncompliance: pre-removal, active efforts, jurisdiction and placement;
- Most Common Areas of Noncompliance: notice and inquiry, active efforts, placement and use of qualified expert witnesses; and
- Most Noted Obstacles to Compliance: lack of counsel for tribes, lack of knowledge about ICWA on the part of judges, attorneys, and social workers, hostility to tribal participation/input in case, and, all too often, failure to provide meaningful notice to tribes.

The report contains twenty-five recommendations relating to education for counsel and social workers, consolidated courts, appointed counsel for tribes, attorney fees, sanctions, binding pre-dispositional agreement, codification of ICWA application and enforcement in the foster care bill of rights, state monitoring/oversight, agency report sections on ICWA, ICWA data collection, tribal access to records, culturally appropriate services, ICWA units within agencies, lower case counts for social workers handling ICWA cases, establishment of California Department of Social Services (CDSS) Office of Native American Affairs, CDSS share federal block grants with tribes, share state funding for placement recruitment with tribes, criminal background exemptions, active efforts, expert witnesses, periodic reports to include tribal contact information, agency pleadings reviewed and approved by county counsel, CDSS Tribal Consultation Process, judicial competency, tribal title IV-E unit within CDSS, de facto parent process, and criminal penalties for willful ICWA violations.

As an attorney for CILS who helped with the drafting of this report, Ms. Parr shared personal remarks. What is unusual about this report is that the effort was led by tribal leaders, and consequently, tribes across the state feel a real sense of ownership of the report and its recommendations. Many of the recommendations call for legislation and education. Ms. Parr asked for support to implement these recommendations from the forum and the BCJ.

As Task Force Co-chair, Judge Abinanti shared personal remarks about the report. She focused on two of the report's recommendations: appointed counsel for tribes and consolidated courts. She explained that without attorneys for tribes, the judges are unable to make informed decisions and tribes are unable to meaningfully participate. She pointed out that all the parties except

tribes have attorneys, and said she could think of no other case type where all but one party is represented. She asked members to think about whether this is fair and explained it leads to uninformed decisions. She urged courts to consolidate resources in specialized ICWA calendars so that judges, attorneys, social workers and advocates can develop an expertise in ICWA. The report underscores that ICWA specialization and education would translate into better understanding about the process and a fairer process for the parties.

#### **ICWA Statewide Workgroup & Consultation Policy, Data & Systems**

Kelly Winston, Bureau Chief at CDSS and Mary Risling, Tribal Consultant at CDSS, described the agency's work related to ICWA compliance including the ICWA Work Group and the development of and upcoming rollout of CDSS's tribal consultation process in coordination with the tribal consultation process of Health and Human Services. Ms. Risling described her work on the agency's new case management system and the need to define terms so that data can be analyzed across systems. She gave the example of "ICWA Eligible Child," which is not defined and is used differently across systems. Ms. Risling described looking forward to working closely with the state judicial branch and local courts that are implementing electronic court case management systems so that required data can be captured and shared electronically across systems in smart forms.

Representatives from the Los Angeles County Superior Court described the Odyssey Tyler court case management system. A majority of California's state courts are using this system, which can be configured to capture various kinds of ICWA-related data. For example, the system can flag ICWA cases, notice tribes, and run reports to obtain an accurate total of ICWA cases. Courts are just beginning to explore these system features.

#### **California Statutes and Rules of Court — Implementation Issues, Proposed Legislative, and Rule Proposals**

This part of the session was postponed for a future forum meeting giving members time to review the federal ICWA regulations and staff time to analyze the regulations and their potential impact on California legislation and rules of court.

#### **Item 5**

##### **Session 3: Funding**

Judge Richard Blake and Natasha Anderson, Deputy Associate Director, Tribal Justice Support Directorate, Bureau of Indian Affairs, described new funding for tribal courts in California. Congress has finally begun to recognize the needs of tribal judicial systems in mandatory P.L. 280 states (in comparison, tribes in non-P.L. 280 states receive 638 grants to support tribal justice systems) and allocated \$10 million to the Bureau of Indian Affairs Office of Justice Services' Tribal Justice Support Directorate. The funding is for assessing needs, considering options, and design, development, and piloting tribal court systems for tribal communities.

#### **Item 6**

##### **Session 4: Working Lunch**

**State of Tribal Courts: Where We Stand After [Dollar General](#) and Other Recent Cases**

Professor Carole Goldberg began her presentation by stating that as of June 9, 2016, the U.S. Supreme Court had not issued its opinion in *Dollar General Corporation v. Mississippi Band of Choctaw Indians*.<sup>2</sup> An adverse decision in the case has far-reaching potential for negatively affecting tribal sovereignty and the authority of Indian tribal courts. The issue presented to the Supreme Court is whether tribal courts have jurisdiction to decide civil tort claims against individuals or companies that are not members of the tribe. A local Dollar General store on the Choctaw reservation offered young tribal members internships as part of a training program. Dollar Store was sued when a 13-year-old boy accused the manager of soliciting sex and offering to pay him large sums of money in exchange for sexual acts. The lawsuit was filed in tribal court, but Dollar General sued separately in federal court to contest the tribal court's jurisdiction. After losing in the lower courts, Dollar General sought review in the Supreme Court. The outcome of the case threatens to shift the delicate balance between United States government and the governments of Native American tribes. In essence, Dollar General seeks a ruling that tribal courts cannot adjudicate ordinary tort disputes involving non-Native Americans. The case could redefine interactions between the federal government and tribes as sovereign nations within U.S. borders.

Professor Goldberg described the Dollar General case in the historical arc of tribal-state court relations in California. Many tribal justice systems are undergoing unprecedented change as tribal nations consider extending their inherent criminal jurisdiction over non-Indians in domestic violence cases, as provided by the Violence Against Women Act Reauthorization Act of 2013 (VAWA Amendments), and as they implement the enhanced sentencing options for Indians provided by the Tribal Law and Order Act of 2010 (TLOA) and tribal jurisdiction over drug crimes, domestic violence against children, and crimes against law enforcement officers provided by the Tribal Youth and Community Protection Act of 2016. The jurisdictional reforms recommended by the Indian Law and Order Commission—up to and including the ability of Indian nations to exit the federal criminal justice system and to retrocede from state criminal jurisdiction in P.L. 280 states—will present ever greater opportunities for strengthening locally accountable, tribally based criminal justice systems. Professor Goldberg posed several questions and shared her insights to these questions: Are we at a turning point as we examine criminal jurisdiction, civil jurisdiction, and options for tribes in P.L. 280 states, the constitutionality of tribal jurisdiction, the future of retrocession, and the lack of funding for tribes in California.

## Item 7

### Session 5: [Continuum of Care Reform \(CCR\) and ICWA in California](#)

Ms. Sylvia Deporto, Child Welfare Director, San Francisco Human Services Agency, described CCR and how it is helping with ICWA compliance. “Continuum of care” refers to the range of care settings for children in foster care, from the least restrictive and least service-intensive (for instance, a placement with an individual foster family or an extended family member) to the

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<sup>2</sup> On June 23, 2016, the U.S. Supreme Court affirmed the ruling of the United States Court of Appeals for the Fifth Circuit by an equally divided court (4-4).

most restrictive and most service-intensive (for instance, a group home with required participation in mental health treatment and limits on when the youth can leave the facility). CCR is a comprehensive reform effort to make sure that children in foster care have their day-to-day physical, mental, and emotional needs met; that they have the greatest chance to grow up in permanent and supportive homes; and that they have the opportunity to grow into self-sufficient, successful adults. Child welfare agencies are giving foster families, now called resource families, training and support so that they are better prepared to care for the children living with them. California has continued to move away from the use of long-term group home care. These reforms create a timeline to implement this shift in placement options and related performance measures. They build upon many years of policy and practice changes designed to improve outcomes for children in foster care. Depending on the type of placement and needs of a child in foster care, core wrap-around services are provided. They may include arranging access to specialized mental health treatment, providing transitional support from foster placement to permanent home placement, supporting connections with siblings and extended family members, providing transportation to school and other educational activities, and teaching independent living skills to older youth and non-minor dependents. By providing these core services and supports in ICWA cases, social workers are focused on reconnecting these young people with their tribal communities and giving them a sense of belonging.

**Item 8:****Session 6: Local ICWA Roundtable—Updates on Strategies for Reducing Disparities and Disproportionality**

The forum through the Judicial Council's Tribal/State Programs promotes these local partnerships aimed at improving compliance with ICWA. Chairs from the Los Angeles ICWA Stakeholders' Roundtable, Riverside Tribal Alliance, and the Bay Area Collaboration of American Indian Resources provided the forum with information about their roundtables and the steps they have taken to address disproportionality and disparities.

**Los Angeles Roundtable**

Dr. Carrie Johnson, Director of United American Indian Involvement, and Judge Amy Pellman, Los Angeles Superior Court, co-chairs of the Los Angeles ICWA Stakeholders' Roundtable, described their roundtable. In June 2013, Judge Pellman requested the technical assistance of Tribal STAR and the Judicial Council's Tribal/State Programs to help convene tribal elders, ICWA advocates, tribal community leaders, TANF providers, school district representatives, parents' attorneys, children's attorneys, county counsel, adoption attorneys, representatives from the Los Angeles County Department of Children and Family Services, tribal representatives from tribes located outside California, local tribal representatives, Native service providers, Casey Family Agency representatives, American Indian Children's Council representatives and statewide ICWA task force representatives. Judge Pellman described her vision to bring together all ICWA stakeholders in Los Angeles County for quarterly meetings in an effort to improve relations, increase effective communication, work on collaborative projects, improve long-

standing issues and overall provide better potential outcomes for Native American families. Dr Johnson commended Judge Pellman and reported that the roundtable had made great strides in these areas.

The roundtable maintains a variety of subcommittees that include establishing a peacemaking court program, tribal engagement and outreach, recruitment of Native American foster homes, culturally competent resources and services, and the inquiry/notice/training subcommittee. The roundtable has had positive outcomes, such as sharing Native-specific resources through the resource directory, Red Pages, recruitment of Native foster homes through a number of media outlets, and launching a peacemaking program.

#### **Riverside County Tribal Alliance (Alliance) for Indian Children and Families**

Judge Sunshine Sykes, Riverside Superior Court and chair of the Riverside County Tribal Alliance, described the Alliance, which is dedicated to increasing participation, communication, and understanding among the court, the tribes, and county agencies serving Native American families. The Alliance was formed in 2005 under the leadership of the Riverside Superior Court. The goal is to minimize court and county intervention and increase tribal participation and control over Native American children and families by developing culturally appropriate services. Alliance members are working to create and sustain partnerships founded upon understanding, communication, and cultural awareness among the sovereign tribal nations and community and governmental agencies. The Alliance meets three times a year. Meetings are hosted by Alliance members and include presentations and discussions involving cultural awareness issues and tribal programs. The Alliance has developed work groups that meet regularly throughout the year to discuss tribal and court issues. These workgroups focus on tribal expert witnesses, education, placement and foster care, and domestic violence.

#### **The Bay Area Collaborative of American Indian Resources (BACAIR)**

Ms. Mary Trimble-Norris, Director of the American Indian Child Resource Center, and Ms. Sylvia Deporto described BACAIR, which is a gathering of Native American agency, state, and county representatives that practice within a framework of respect, wellness, cultural affirmation, healing and restoration for American Indian/Alaska Native families residing in the greater Bay Area. BACAIR promotes culturally appropriate responsiveness; strengthens permanent connections; informs policy and practice; honors government-to-government relations; provides guidance through governmental and agency systems; and facilitates awareness and access to resources for American Indian/Alaska Native families through collaboration, advocacy, engagement and education. BACAIR recently updated its brochure and developed a booklet for parents with information on ICWA and Bay Area resources. Currently, Alameda and San Francisco social service departments are participating in BACAIR. BACAIR has improved the accuracy of data collection, reduced disproportional numbers of Native children in foster care, and seen an increase in tribal enrollment of Native children. BACAIR trainings have resulted in improved inquiry and notice practices in the counties. BACAIR has working/affinity groups that meet regularly throughout the year to discuss policy, outreach and practice.

**Item 9:****Session 7: National Level News and Programs****Tribal Law and Policy Institute (TLPI)**

Jerry Gardner, Director of TLPI, described his organization and online resources relating to tribal/state collaborations, [Walking on Common Ground](#), and tribal news, [Tribal Law Updates](#). Mr. Gardner invited members to attend the [15<sup>th</sup> National Indian Nations Conference: Justice for Victims of Crime](#) December 8-10, 2016. This conference provides opportunities for tribal, state, and federal participants to share knowledge, experience, and ideas for developing and improving strategies and programs that serve the unique needs of crime victims in Indian Country. Mr. Gardner also described the work of the Native American Concerns Committee of the American Bar Association's Section of Civil Rights and Social Justice, which has planned two teleconferences to discuss the new ICWA regulations and the Dollar General decision and recently has made policy recommendations in support of the Tribal Law and Order Commission Report relating to juvenile justice in Indian country and Alaskan Native concerns. He invited members to the ABA's 2016 Annual Meeting in August, and the program on [Tribal Courts in the 21<sup>st</sup> Century](#) on August 5, 2016. Mr. Gardner also provided information on the recent U.S. Senate Committee on Indian Affairs legislative hearing on S. 2785, The Tribal Youth and Community Protection Act, and S. 2920, the Tribal Law and Order Reauthorization of 2016. The former would amend the domestic violence criminal jurisdiction provision included as Section 904 of Violence Against Women Act 2013 to affirm tribal jurisdiction over certain non-Indians who commit crimes against native children in Indian country, certain drug offenses, and related crimes. The latter would reauthorize the Tribal Law and Order Act, which authorizes expanded sentencing authority for tribal justice systems, clarifies jurisdiction in P.L. 280 states, and requires enhanced information sharing.

**Casey Family Programs (Casey)<sup>3</sup> and National American Indian Court Judges Association (NAICJA)**

Sheldon Spotted Elk, Director of Casey's ICWA Programs, described his organization, which is the nation's largest operating foundation focused on safely reducing the need for foster care and building Communities of Hope for children and families across America.

Judge Richard Blake, NAICJA President, described the organization. Established in 1969, NAICJA is a national association comprised of tribal justice personnel and others devoted to supporting and strengthening tribal justice systems through education, information sharing, and advocacy. Casey and NAICJA have teamed up to promote dialogue, conduct needs assessments, and help jurisdictions improve compliance with the Indian Child Welfare Act. They will be working with the forum to plan two ICWA roundtables. The first is tentatively scheduled in the south on October 18th right before the NAICJA Conference at Morongo. The second will be in the north at a location to be determined by the forum, NAICJA, and Casey Family Programs.

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<sup>3</sup> The forum and Tribal/State Programs staff would like to thank Casey Family Programs for its generosity in hosting the dinner meeting on June 8, 2016, which preceded this forum meeting. It was both informative and offered an opportunity for forum members, guests, and staff to strengthen their collaboration.

**Item 10:**

**Session 8: Planning for ICWA Statewide Roundtables 2016-2017**

Nikki Borchardt Campbell, NAICJA Executive Director, and Mr. Spotted Elk, facilitated a discussion to begin planning for the ICWA Roundtables. Forum members asked for topics to include (1) the history and context for ICWA, including historical trauma; (2) cultural bias through group exercises to identify cultural bias; (3) new laws: regulations, guidelines, and case law; (4) judicial oversight/how to prevent reversals on appeal; (5) information on the California ICWA Task Force Report; and (6) data collection.

The group discussed ways to attract judges to attend—convening the roundtables in conjunction with existing state judicial educational programs, such as CJER’s Institutes (Cow County May 2017 and Juvenile Law Institute December 2016) or Beyond the Bench (December 2017), paying for associated travel and lodging expenses for judges, including topics that interest judges such as items 3 and 4 listed above.

The group discussed the type of format for the roundtables, identifying the benefits of public hearing, in-person educational workshop, and regional webinar formats. The group discussed the benefits of not only focusing on judicial education, but also including all who work in the child welfare system (for example, attorneys, social workers, and tribal advocates).

The group discussed other potential locations—tribe in northern California to host, Sacramento, and Palo Alto (in May during Mother’s Day weekend, the Stanford American Indian Organization and the Stanford Powwow Planning Committee host a Pow Wow).

**Item 11:**

**Session 9: Forum Priorities 2016-2017 and Court Improvement Program Grant**

The forum co-chairs directed members to the annual report, which describes the forum’s projects and lists them by priority and category type: policies, education, and tribal/state partnerships. They encouraged members to review and give feedback on current projects, as well as to suggest new ones.

Ms. Walter described a federal grant opportunity for \$500,000 a year for five years for a total of \$2,500,000 to improve ICWA compliance, posted in April by the Health and Human Services Department with a deadline of June 22, 2016. She thanked forum members and representatives from BACAIR, CWDA, NAICJA, and TLPI for providing letters of support for the grant application, which will be submitted by the Judicial Council of California as the lead agency in partnership with the CDSS and the Tolowa Dee-ni’ Nation. Because the grant requires that the first year be devoted to planning and strengthening relationships, the application proposes to build on the forum’s success by establishing an ICWA Implementation Partnership that will serve to steer the proposed projects. This partnership will include, at a minimum, a representative of the CDSS, Child Welfare Director’s Association, California Indian Court Judges Association, Forum, Pacific Regional BIA, Statewide ICWA Workgroup, and Tolowa Dee-ni’ Nation.

This partnership will, directly or indirectly, serve all of the American Indian populations in California. Some of the project's goals and objectives will have statewide impact. These include:

- (1) Policies: legislative, rule, and regulatory changes consistent with the new BIA Guidelines and regulations will be written, coordinated, and implemented;
- (2) Education: national judicial curriculum will be adapted for California consistent with new federal ICWA regulations and case law and judicial training will be offered;
- (3) Technology: improved data systems within the California child welfare case management system and court case management systems will result in more accurate and complete information concerning ICWA compliance and the outcomes for Indian children and families.

Other projects will have local impact because they will be piloted by partnership courts. The ICWA Implementation Partnership will identify promising practices to pilots. Written into the proposal is piloting appointment of attorneys for tribes. Other promising practice models are suggested, such as (1) replicating the joint jurisdictional court, developing memoranda of understanding, and protocols for transfer between state and tribal courts; (2) consolidating resources in specialty ICWA courts and making modifications in court calendaring systems to better accommodate participation by tribal representatives; and (3) establishment of local dedicated ICWA units within specific county child welfare agencies. All models will be evaluated with ICWA compliance and other child welfare measures. We expect that as a result of the activities under the grant we will see greater ICWA compliance including early identification of Indian children; early notice to tribes; fewer placements outside the ICWA placement preferences and fewer appeals. Results will be measured by pre- and post-intervention file review assessments and surveys as well as data analysis.

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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 5:00 p.m.

Pending approval by the advisory body on October 6, 2016.