

CALIFORNIA TRIBAL COURT/STATE COURT FORUM

February 2013

Related Educational Activities

With grant funding, the Administrative Office of the Courts (AOC) staffs the California Tribal Court/State Court Forum, a coalition of tribal and state court judges who come together as equal partners to examine 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. The forum is convened for the express purpose of improving working relationships among its members and enabling the courts of each to issue and enforce their respective orders to the fullest extent.

The forum comprises 29 members: 13 tribal court judges, representing 16 of the 22 tribal courts in California (these courts serve more than 40 tribes in California); the tribal advisor to the California Governor; the director of the California Attorney General's Office of Native American Affairs; and 15 members of the state judiciary, 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, Probate and Mental Health Advisory Committee, Traffic Advisory Committee, Criminal Law Advisory Committee, as well as representatives of the local courts in counties where many of the tribal courts are situated.

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 AOC 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, forum members 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.
- On October 14, 2011, forum members addressed the California Indian Law Association Conference on the work of the forum and the legislative proposal to recognize and enforce tribal civil orders.

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- On October 25, 2011, forum members addressed the National American Indian Judges Association Conference on the work of the forum and the electronic noticing initiative.
- In December, 2011, forum members 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 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, forum members met with other state judicial branch leaders at the Leadership Forum. Chief Justice Tani G. Cantil-Sakauye, presiding judges and court

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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, forum members 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, forum cochairs presented an overview of the forum's activities to the California Judicial Council at its issues meeting.
- On September 14, 2012, forum members 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 October 8-9, 2012, forum working in collaboration with the AOCA and 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, forum members 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.

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 and 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

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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 the subject of domestic violence and how to navigate the state court system.
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
- 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
- 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*. The updated courses were held in January 2013.

Ongoing Educational Activities

- Convene cross-court exchanges, which are judicially-led on tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence and/or elder abuse in the tribal community. A series of four are planned at Quechan, Yurok, Hoopa, and the Inter-Tribal Court of Southern California.
- Update the judicial benchguides, as needed, to incorporate issues that arise between tribal and state courts. These benchguides cover a wide range of topics, including domestic violence.
- Update, as needed, the tribal projects web page, which serves as a 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 projects page on the California Courts website at www.courts.ca.gov/programs-tribal.htm.)
- Advise on ICWA training, provided locally and regionally, to courts that request training (grant funding to provide up to 10 sessions per year).