Minutes

ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM
Indian Child Welfare Act (ICWA) Committee

Monday, April 9, 2012, 9:00 a.m. - 12:00 p.m.
Arizona Courts Building, Room 230
1501 West Washington
Phoenix, AZ 85007

Com. Kathleen Quigley and Judge Kami Hart

Attendees introduced themselves and their interest in and experience with ICWA. Many emphasized the importance of ICWA to tribes, tribal families, and the children themselves and the need for greater cooperation and understanding in order to achieve full compliance with ICWA.

Court Forum mission
David Withey described the purpose and history of the Court Forum and referred the committee to the Court Forum web site, http://www.azcourts.gov/stfcf/Home.aspx, for further information. He suggested that the meetings be conducted as public meetings, open to the public to attend. He also explained a participants list would be maintained so interested non-members may receive information about the committee.

ICWA Committee goals and priorities
Members suggested the following goals and priorities:

- Greater communication between tribal and state courts – local interaction
- Address overlap between family and juvenile court issues including child custody and support.
- Need for attorneys to raise ICWA issues on behalf of Indian parents and children and the need to define the role of guardian ad litem vs. attorney for child.
- Need for Arizona statutes and rules to address and clarify ICWA application.
- Address Indian children lost in the juvenile justice system.
- Hold another Arizona ICWA conference.
- Clarification of who should serve as a “qualified expert.”
- Greater coordination with CPS on obtaining information for court report, home studies and kinship placement.
- Clarify FCRB role concerning ICWA
- Consider impact of private and interstate adoptions.
- Address parent failure to disclose Indian status and BIA slow response
- Honoring ICWA placement priorities
- Seek consistency between ASFA and permanency provisions and AZ law and ICWA priorities and timeframes
- Reassess importance of child bonding

- Role of IGA's in addressing ICWA issues
- Hold state and tribal leaders forum to resolve issues

Additional Members and Participants
Members discussed the potential need to add others to the committee's ICWA discussion. Professor Atwood at the UofA law school was mentioned as having ICWA legal expertise and interest. David Withey advised the committee may ask Judge Grimsley to add members.

Issue identification
The following issues were presented to the committee by e-mail from Linda Johnson, AZ DES based on a meeting with Senator Jackson but the meeting time expired before they could be addressed:

- The state requirements for a *Preliminary Hearing in 5-7 Days After Petition is Filed* conflicts with ICWA requirements that this occurs *No Sooner than 10 Days*. In practice, Arizona State law supersedes the federal law.
  - What is the Court's practice re: the Preliminary Protective Hearing (PPH) on cases involving children who are or may be subject to the Federal Indian Child Welfare Act (ICWA)? Is it the Court's practice to hold or continue the PPH on children who are or may be subject to the ICWA, pending notification to the child's tribe?

- The Expedited Permanency Hearing for children under age three. It does not allow for Indian families to truly have the opportunity for reunification.
  - Does the Court handle cases involving children, under the age of three and subject to ICWA, differently than cases involving non-Indian children? Is it the Court's practice to hold or continue the Permanency Hearing?

- Court Appointed Attorneys, CPS Workers, Social Workers, New Judges, and Juvenile Judges need more training on ICWA.
  - What training (initial and ongoing) is provided to Judicial Officers and court-appointed attorneys handling ICWA cases?

- Sometimes Kinship Homes on the Navajo Nation, which are determined to be appropriate by tribes, are ultimately not honored/approved by the Court.
  - Is there a practice standard that the Court uses to determine that placement of an Indian child with a family identified/approved by the tribe is appropriate (or not)? What is the Court's view of tribal placement? What reason(s) would the Court not authorize placement with a tribal approved placement?

Future Meetings
Members in attendance tentatively scheduled the next meeting for Monday June 18.