

ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM

Arizona State Courts Building
Room #119 A&B

Friday, January 19, 2001
10:00 a.m.

The State, Tribal, and Federal Court Forum met at the Arizona State Courts Building in Phoenix, Arizona.

<u>Members Present</u>	<u>Participants</u>	<u>Members Absent</u>
Hon. Michael C. Nelson	David L. Withey, Staff	Hon. Earl Carroll
Hon. Leroy S. Bedonie	Margaret A. Flores	Hon. Lucilda J. Norris
Hon. William C. Canby, Jr.	Charlene Jackson-Louie	Hon. Neil Flores, Sr.
Hon. Cornelia Cruz	David M. Osterfeld	Hon. Marjorie Grimes
Hon. Susan A. Ehrlich	Hon. M.E. Talayumptewa	Hon. Sherry Hutt
Hon. Gloria Kindig	Hon. Gary LaRance	Frederic Kay, Esq.
James R. Redpath, Esq.	Diane Humetewa	Thomas Hannis, Esq.
Frederick K. Steiner, Jr. Esq.	Marie Manson	Hon. William R. Rhodes
Hon. Kathleen E. Gratz		
Hon. Violet A. Pohakukuiwai Lui-Frank		
Kathleen Rosier		

The meeting was called to order at 10:00 A.M. by Judge Nelson, Chairman. Reappointments were affirmed and Judge Ehrlich was appointed Vice-Chair. Court Forum members and participants introduced themselves.

Approval of February 25, 2000 Meeting Report

Minutes were approved with no additions or corrections.

Recognition of Tribal Court Judgments Rule Update

The rule, which became effective December 1, 2000, provides a process for the filing and recognition of tribal court judgments by state courts. Mr. Withey provided clerks a form for their use in processing cases under the rule. This form was modeled after the form used for recognition of involuntary commitment orders. The superior court clerk in each county has adapted the form for use in the superior court in that county. The clerks also agreed that the statutory minimum fee of \$17 to \$18 would apply to these matters.

QUADRO Legislation Review

Legislation was drafted by U.S. House of Representatives staff at the request of Rep. J.D. Hayworth, who serves on the House Ways and Means Committee, because this legislation involves a tax issue. Rep. Hayworth will try to have this legislation enacted by amending a tax bill because it is not substantial enough to be introduced as a separate bill. Rep. Hayworth's office needs approval of the language from the Court Forum before proceeding. The next step is to send a letter to the entire Arizona delegation to inform the delegation of this legislation and to insure that there is no informal veto from a member of the delegation. Senator John McCain would be a great choice for Senate sponsorship. After review of a copy of the definition of "Indian," the Forum approved the draft legislation, directed that Senator McCain be asked to sponsor the legislation, and directed that a letter be sent to the Arizona delegation requesting support.

2001 State, Tribal and Federal Judges Conference Planning

The Forum confirmed that this conference will be located in Flagstaff during the Arizona Judicial Conference on the afternoon of Wednesday, June 6, 2001. Concern was expressed that hotel accommodations will be limited. An Arizona oriented interactive session will be planned. This session will be led by Prof. Robert Clinton from Iowa and Prof. John Burrows of the University of Toronto.

Ideas for topics discussed were state alternative dispute resolution/Navajo peacemaker court, how tribal custom and tradition gets factored into tribal court decisions, tribal extradition processes and juvenile probation programs.

Activities suggested were (1) presenting case scenarios to which state, tribal and federal judges respond as teams thus illustrating similarities and differences in how each court handles particularly difficult cases, (2) matching state and tribal judges in each county and having the judges report to the group what they have learned about their counterparts, and (3) identifying points of interface and overlap and the professional and court operational benefits of regular interaction among state, tribal and federal judges. The presiding judge of the superior court in each county could be asked to attend or designate a judge from each county to attend the meeting to participate in the program. Mr. Withey suggested that NAU Indian programs staff be invited to participate in planning and supporting the conference with the potential that NAU host this conference the next time the Arizona Judicial Conference is held in Flagstaff.

Proposed Work Groups on Intergovernmental Cooperation, Education, and Tribal Law and Courts - Discussion of Tasks and Timetables

The Forum discussed three subject areas for which work groups were proposed: intergovernmental cooperation, education, and tribal laws and courts. The need for a work group on tribal laws and courts was discussed and approved. The use of the Heard Museum as a repository for current materials was discussed, and ASU College of Law was identified as a more appropriate repository for current versus historical materials. ASU has appointed a new dean and has other new staff since the law school's involvement in this project was last considered.

Division into Work Groups - Discussion of ideas and issues and tentative identification of future meeting times

The Forum divided into work groups based upon the choice of each member present and tentative assignment of members not present as follows:

Tribal Laws & Courts

Hon. Sherry Hutt, Chair
Frederick K. Steiner, Jr. Esq
Hon. Leroy S. Bedonie
Kathleen Rosier
Marie Manson
Hon. William R. Rhodes

Intergovernmental Cooperation

Hon. Violet A. Pohakukuiwai Lui-Frank, Chair
Hon. Susan A. Ehrlich
Diane Humetewa
David M. Osterfeld
Frederic Kay
Hon. Neil Flores, Sr.
Gary La Rance
Hon. M.E. Talayumptewa
Hon. Kathleen E. Gratz
James R. Redpath, Esq.

Education

Kathleen Rosier, Chair
Hon. Gloria Kindig
Hon. Cornelia Cruz
Hon. William C. Canby, Jr.
Hon. Earl Carroll
Hon. Lucilda J. Norris

Work Groups Report back to Forum

Tribal Laws & Courts

- Provide access to charters, treaties, constitutions, codes, regulations, cases old and new, directory of agencies and personnel to everyone, particularly through the internet. Project to be administered by one full-time person.
- Repository Subcommittee appointed consisting of Judge Ehrlich and Kate Rosier to explore prospect of establishing a repository for Arizona tribal legal documents at ASU College of Law.
- Problems: Full time staffing and funding needed.
Tribal participation and cooperation needed.
- Contacts: ASU, Heard Museum, Southern Arizona Legal Aid (SALA), Christine Yalda, National Indian Court Judges Association (NICJA) (Narf.com, thorpe.ou.edu)
- Meeting Date: March 9, 2001 conference call.

Intergovernmental Cooperation

- Prepare benchbook for three court systems that includes the following topics:
- Develop preliminary draft of state traffic rights of way on Indian reservations; assigned to Jim Redpath.
- Service of process assigned to David M. Osterfeld, Gary La Rance, Judge Talayumptewa, and Judge Lui-Frank. Develop draft on specific reservations and the applicable laws, how "service of process" works and include any forms. The purpose is to be a guide for judges throughout the state. Will include special sections that would pertain to particular tribes because of the existing differences in laws among tribes.

- Non-Indian offenses committed on Indian reservations, assigned to Diane Humetewa. To be used as a general guide for judges. Research material already available on laws such as Violence Against Women Act (VAWA), Indian Child Welfare Act (ICWA).
- Transfer process, ICWA, domestic violence, and child support transfer assigned to David M. Osterfeld
- Extradition assigned to Gary La Rance to look at each of the reservations.
- Involuntary commitment
- Meeting Date: March 23, 2001 at Apache Gold Casino

Education

June Conference:

- Divide into counties with at least one judge from the superior court in each county. Judge Kindig offered to encourage Judge Jeff Coker and others to attend.
- Use benchbook proposed by the intergovernmental group. Gather materials for new judge orientation and incorporate information into existing training programs and benchbooks.
- ASU/ICJA (Indian Court Judges Association) partnership is currently developing programs for judges. ASU will begin to invite state judges to the programs and on a rotating basis invite the tribal court judges.
- Tribal judgments rules- ASU professors will create a handout for the June conference on statutes and rules. This handbook will contain an explanation of the rules so that the judges will know that they are available.
- Internet - A list of tribal judges directory is already on the supreme court website. Make sure that tribal judges are on state training mailing list for state training events. ASU currently has a grant to help tribal court judges get their computer systems going so that they can access the internet. The Forum should ensure that all judges have all the addresses for resources online, such as the justice web and the tribal court clearinghouse site.

Conference call: March 21, 2001 1:30pm

Next Forum Meeting

June 6, 2001 at 5 PM following judges conference in Flagstaff.

Call to the Public

No response.

Adjourn

