

ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM

Arizona State Courts Building, Conference Room 119A/B

Approved Minutes of the August 14, 2015 Meeting

Court Forum Members Present:

Hon. Brian Burke Ak-Chin Indian Community Tribal Court	Jan Morris (via telephone) Public Member
Jeff Harmon State Bar of Arizona	Tracy Van Buskirk U.S. Attorney's Office
Hon. John Lamb Yavapai-Apache Tribal Court	Hon. Claudette White Quechan Tribal Court
John Major Public Member	Hon. David Widmaier Pinetop-Lakeside Municipal Court
Maria Morlacci Arizona Office of the Attorney General	Hon. Ida Wilber Hualapai Tribal Court

Administrative Office of the Courts (AOC) Staff Present:

David Withey	Joseph Kelroy
Brenda Lee Dominguez	Kathy Waters

Participants/Visitors Present:

Barbara Atwood (via telephone)	Vickie Steinhoff
Lydia Hubbard-Pourier	Dawn Williams (via telephone)
Sharon James-Tiger (via telephone)	Hon. Lawrence Winthrop
Hon. Lawrence King (via telephone)	Sheina Yellowhair

I. Registration - (Beginning at 9:30 a.m.)

II. Call to Order and Greeting

Meeting called to order by David Withey at 10:10 a.m.

III. Participant Introductions

David announced the following new members to the Court Forum:

- Hon. Brian Burke, Ak-Chin Indian Com. Tribal Court
- Hon. Randall Howe, Arizona Court of Appeals, Division 1
- Deanne Romo, Clerk of Court, Navajo County Superior Court
- Hon. Lamb, Yavapai-Apache Tribal Court
- Hon. Osterfeld, White Tank Justice Court
- Hon. Douglas Rayes, U.S. District Court
- Hon. Wayne Yehling, Pima County Superior Court

IV. Member Additions to Agenda

None at this time.

V. Approval of Minutes

Motion: Judge Widmaier made a motion to approve the minutes for December 5, 2014, Judge Lamb second the motion, which was unanimously approved.

VI. Meeting Business

A. ICWA IGA Option

Sharon James-Tiger, Arizona Department of Child Safety (ADCS) Tribal Liaison, and Dawn Williams, Arizona Attorney General's Office, reported on IGA procedures and training – [DCS Tribal Consultation Report 2015](#). DCS works in collaboration with the 22 tribes of Arizona regarding child welfare program, policies, and new regulations. The Navajo Nation and DCS engaged in extensive discussions to develop and finalized an IGA in December 2014 for coordinating child welfare cases under ICWA. The Navajo Nation IGA will serve as a model for establishing agreements with other tribes within the state of Arizona. The Salt River Pima Maricopa Indian Community, Pascua Yaqui, Tohono O'odham Nation, and Hopi tribes are actively working with ADCS to develop an IGA that meets the needs of each tribe.

Judges Wilber and White recommended sending meeting notices to Tribal Court. Training on the IGA has been offered to state and tribal child welfare workers but not to state and tribal court personnel. The judges suggested that they be included in meetings concerning an IGA with the tribe they serve.

B. ICWA Update

Barbara Atwood, Professor at University of Arizona, and David Withey reported on the latest additions to the [Arizona ICWA Guide 2015](#) (Guide) concerning the federal ICWA guidelines. Send comments regarding the Arizona ICWA Guide 2015 to David at dwithey@courts.az.gov.

Barbara reported that the BIA issued new guidelines this year. The guidelines are much stronger and there are major changes from the prior 1979 guidelines. There are Arizona cases that now conflict with the guidelines. Dawn Williams prepared an outline showing the changes from the 1979 guidelines to the new guidelines. [Guideline Comparison Outline](#).

Action Item: The guideline comparison outline will be posted on the Court Forum/ICWA webpage [<http://www.azcourts.gov/stfcf/ICWA-Committee>].

C. Child Support Follow-up

1. Committee. Commissioner Myra Harris was not able to attend the meeting.
2. Forms Availability. Child Support forms on establishing child support and [Navajo Nation Child Support Guidelines](#) provided in meeting material.

D. Veterans Court Update

David Withey reported that an Administrative Order was signed on April 10, 2015 establishing the latest Regional Veterans Court in La Paz County. Most limited jurisdiction veterans courts involve pre-adjudication diversion, which means the sequence of court proceedings is reversed. For instance, in a typical DUI the individual is convicted and then must comply with education and treatment requirements as a condition of probation and license reinstatement. In veteran courts the vet is usually required to do the treatment then a plea agreement is negotiated depending on the veteran's success in the treatment. There is no reason a tribal judge could not be appointed as a judge pro tem and serve as a judge, or at least a back-up judge in a regional limited jurisdiction veterans court. The sending court retains jurisdiction over the case. The veterans court generally would only supervise the veteran during the treatment portion of the case and, depending on the procedure set up by the participating courts, could impose the final judgment per a plea agreement, or refer the case back to the sending court. If a veteran fails to progress in the veterans court, the case would be sent back to the sending court. All tribal treatment and dispute resolution options can be incorporated into the veteran court process. There are no "rules" that require these courts to operate a certain way. They can function based on the agreements reached between the courts and the prosecutors from participating jurisdictions.

E. Involuntary Commitment Update

Lydia Hubbard-Pourier introduced Sheina Yellowhair, Cenpatico Tribal Relations Team Lead for the Regional Behavioral Health Authority (RBHA) Southern Geographic Service Area. Lydia will be retiring on August 31. Sheina will be attending future Court Forum meetings to provide technical advice from the tribal and RBHA behavioral health service perspective. She has been a major part of the recently completed Department of Behavioral Health Services (DBHS) Involuntary Commitment for American Indians training. In the last 6 months there have been 10 trainings with over four hundred participants.

Action Item: Sheina Yellowhair to provide David Withey with a flowchart of the Involuntary Commitment process and the curriculum for the DBHS Involuntary Commitment for American Indians training.

David Withey reported that he will continue work on a webinar that will cover the entire process of the involuntary commitment.

LUNCH – 12:15 p.m.

F. Indian Law & Order Commission Roadmap

David Withey provided a brief report on the [Indian Law and Order Commissions Roadmap](#). This report reflects one of the most comprehensive assessments undertaken of criminal justice systems servicing Native American and Alaska Native communities.

G. U.S. Attorney Update

Tracy Van Buskirk reported on the Special Assistant U.S. Attorneys (SAUSA) program. The Indian county SAUSA program makes it possible for U.S. Attorneys to appoint qualified prosecutors to work in the capacity of an Assistant U.S. Attorney for the prosecution of certain Indian country cases. SAUSAs work collaboratively with their respective U.S. Attorney's Offices to refer cases arising on Indian lands so that the investigations do not fall through the cracks. The Salt River Pima-Maricopa Indian Community, Gila River Indian Community, White Mountain Apache, Pascua-Yaqui, Fort McDowell, and Tohono O'odham tribes are currently involved in the program and eleven SAUSAs.

H. Probation Committee Report

1. Cooperation Options
2. Review of Summit Objectives
3. Presentation to ITCA – Tribal CEOs
4. [Work Group Meetings](#)
5. Summit Meetings

Kathy Waters, Adult Probation Services Director, reported that there are two upcoming training opportunities (1) Sex Offender Supervision Essentials, September 9-10 and (2) Supervising Offenders with Serious Mental Illness, October 14-15 – both are being held at the Judicial Education Center in Phoenix, Arizona. Contact Michelle Wessels at mwessel@courts.az.gov if interested in attending.

Kathy reported that the State Probation Academy encourages tribal officers to attend the probation officer training program. Tribal officers who attend will receive a certification of completion.

A regional summit meeting is being planned for the spring of 2016. Kathy asked for recommendations on how to approach the ITCA - Tribal CEOs before going forward with the summit. Kathy asked for volunteers to go with the staff when they make their presentation. Contact Kathy at kwaters@courts.az.gov regarding volunteering or recommendations.

Judge Burke commented that the risk assessment tools need to be addressed for tribal court convictions. Kathy reported that the risk assessment tools are offender based – dependent on behavior of crime. Kathy volunteered to meet and discuss this matter with Judge Burke.

Kathy reported that the Coconino Online Probation Education (COPE) has been funded by a grant from the U.S. Department of Justice's Bureau of Justice Assistance Second Chance Act Federal Award. As part of the program Page's Coconino County Adult Probation Department will have Smart TVs and computer kiosks installed which will allow probationers in the COPE program to

participate in online cognitive behavioral therapy, classes that train participants to think about criminal behavior and its consequences in a healthy way, and utilize an online mentoring program.

David Withey reported on the [Port Gamble S'Klallam Tribe's Re-Entry Program](#) out of Kingston, Washington. Their program is dedicated to providing hope for tribal and community members with barriers to employment due to a criminal past. They focus on providing job training skills, life skills, and employment. This could be a model for state/tribal/federal collaboration on re-entry to tribal communities.

Tracy Van Buskirk reported that a residential re-entry program is being set up in Northern Arizona and that the Department of Justice's "Smart on Crime" program is getting the word out and pushing re-entry efforts by making grants accessible.

I. AZ Access to Justice Commission Update

Judge Winthrop reported on the establishment of the [Arizona Commission on Access to Justice](#) by Chief Justice Bales on August 20, 2014. The goal of the Commission is to make courts more accessible to all by examining legal representation for moderate and low-income person, helping self-represented litigants and others navigate the judicial process, and by using technology to make courts more accessible to all. The Commission's work groups are working on the court navigator pilot project, standardized/simplified forms and instructions, web-based self-help service center, and community library legal information pilot project.

A Flagstaff center is being setup to house virtual information that can be accessed by the public in remote locations.

The community based public libraries will provide (1) court-supervised training for librarians to assist with locating legal information; (2) computer access to electronic court forms, and (3) on-site legal clinics. Judge White stated that Imperial County has a similar program through a grant funded by the Department of Justice.

VII. Open Forum for Discussion of Issues of Concern

None at this time.

VIII. Next Meeting - December 4, 2015

- Next meeting will be held on December 4, 2015. If anyone would like to host this meeting please contact David Withey at dwithey@courts.az.gov or 602-452-3325.

- Hon. Brian Burke volunteered to host the March 2016 meeting (date to be determined).
- Dates for the 2016 meetings will be selected at the December 4, 2015 meeting.

IX. Adjournment

Meeting adjourned at 2:52 p.m.