

## MEMORANDUM

**To:** State, Tribal & Federal Court Forum Members  
**From:** David Withey, Chief Counsel  
**Date:** February 21, 2003  
**Subject:** STFCF March 7, 2003 Meeting

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As scheduled at our November meeting, the Forum will meet on Friday, March 7, 2003 at the Sandra Day O'Connor U.S. Courthouse at 401 W. Washington Street from 10 A.M. to 3 P.M. Parking is available at the location(s) indicated on the attached map. The meeting will be located in Room 230. After passing through the security station proceed to the elevator to the second floor.

The agenda for the meeting will be finalized on March 4. Please submit any items you would like to place on the agenda for discussion at the meeting to me by that date. As usual we will follow up on pending matters reflected in the attached November meeting report. Feel free to call me at 602-542-9325 or e-mail me at [DWithey@supreme.state.az.us](mailto:DWithey@supreme.state.az.us) with any suggestions. I look forward to seeing you at the meeting.

## **ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM REPORT**

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Friday, November 15, 2002  
Salt River Pima-Maricopa Indian Community Tribal Court  
Scottsdale, AZ

Judge Nelson called the meeting to order at about 10:15 A.M.

The Forum approved the June 19, 2002 meeting report with changes. Kathlene Rosier was not present and Hon. Gary LaRance and Hon. Gloria Kindig were present at the meeting. Item II.A.3 should read "three Arizona tribes" rather than "...four Arizona tribes.."

### **LOCAL COURT INFORMATION**

Officials of the Salt River Community justice system addressed the Forum concerning their responsibilities and how they cooperate with surrounding jurisdictions.

Relan Manual, Chief Tribal Advocate: Described the issue of federal authorities taking suspects for federal offenses without notification to tribal court. This frequently requires a stay of tribal prosecution. A courtesy notification procedure was used in the past. Judge LaRance stated he had also experienced US Attorney and U.S. Marshalls taking defendants from tribal jail when a tribal prosecution is pending. Mr. Manual noted that persons convicted in tribal court have spent as much as eleven years in tribal jail due to consecutive sentencing despite the one year limit on sentencing for an offense. He reported that an attorney or tribal court advocate represents nearly 100% of defendants in the Salt River courts. He expressed concern that advocates may some day be required to be attorneys.

Roy Mendoza - Chief Prosecutor: Explained that the prosecutor files a stay of prosecution when federal authorities need to take a defendant to federal court for prosecution. Mr. Mendoza reported that Salt River has a misdemeanor court, juvenile court with a 72 hour hearing requirement for incorrigible juveniles, a juvenile drug program, and a new juvenile detention facility planned. Salt River prosecutors meet with US Attorney staff regularly, use ABA prosecution standards, and promote restitution and other aspects of restorative justice.

Salt River police are tri-deputized to allow them to arrest Non-Indians for misdemeanors committed on the reservation. Non-Indian defendants are taken to state justice courts. Federal authorities do not prosecute misdemeanor non-Indian on Indian offenses. Sometimes tribes are even left to handle major offenses. The tribe has no civil traffic code so all offenses go to justice court.

Robert Mills - Court Administrator: reported that the tribal court does have access to some treatment services through a program in Santa Fe, New Mexico for which tribal social services pays. The court also operates a drug court, supervised community service for persons on probation. The court works with schools, has contracts for domestic violence counseling, and can handle non-Indian on Indian domestic violence as a civil offense.

Daniel Rena - Probation Officer: reported that Salt River probation officers work closely with county and state probation offices. Offenders may be referred to tribal court to be sentenced to tribal probation. As a courtesy, state probation officers should notify tribal probation that supervision is occurring but need not necessarily notify of every visit. State and county authorities must follow tribal procedures to arrest a probationer on the reservation. There is cooperation on supervision of persons coming out of prison/juvenile corrections, particularly with Joe Garcia at the Arizona Department of Juvenile Corrections.

It was suggested that the state and the tribes consider creating information sheets on protocol for probation supervision on each reservation. Currently, state probation officers arrest state probationers on the reservation and use force where necessary but are not armed.

## **STATUS REPORTS**

### **A. Tribal Laws and Courts Work Group**

- New Chair of work group - Kate Rosier agreed to serve in this capacity.
- Compilation and publication of laws of most interest to Non-Indians - commercial, hunting and fishing, traffic - Kate will check on availability of ASU Law Students.
- Judges LaRance and Brandel reported that Hopi and San Carlos tribal courts will have web site access to tribal legal documents.
- ASU Law School has made progress in compiling legal materials and will provide links at the ILP web site to tribal pages.

### **B. Intergovernmental Cooperation Work Group**

- Members received a draft ICWA checklist for state judges written by Mark Curry. Mark will send the checklist to Judges Kindig and Newton for comment.

### **A. Education Work Group**

- ASU law students are reviewing the benchbooks.
- Judge Kindig agreed to chair this work group and reported that she is serving on the Arizona new judge orientation committee. She will assist the committee identify appropriate Indian law topics.

### **A. Service of Process Rule Proposal: Members agreed that there is a need for rules that provide uniform procedures. Judge Nelson will redraft Ms. Nakai's draft and refer the new draft to the Intergovernmental Cooperation Work Group.**

### **B. Indian Law question on Bar exam: Members reviewed an explanation by the Supreme Court's examinations staff person of the history and considerations involved in the selection of Bar examination topics. Based upon this explanation it was noted that inclusion of a specialty area such as Indian law seems unlikely. However, it was also noted that New Mexico recently add this topic and it is a unique part of Arizona practice not unlike community property law. David Withey**

agreed to communicate further with the Bar admissions staff. Kate Rosier offered to bring this issue up with the Indian Law Section of the State Bar.

- C. Tribal court domestic violence protective orders incorporation into state database. David Withey reported that the supreme court is open to incorporating tribal domestic violence orders into the state database that will be accessed by law enforcement officers to verify the validity of orders presented to them. Sue Hall reported that Arizona clerks of court are supportive of this but do not have enough staff to input tribal court orders. David advised that an interface can be set up between the state database and any automated tribal database. Judge Brandel offered to discuss participation in this with the San Carlos Tribal Council and his software vendor.
- D. QUADRO Legislation - David Withey will call Rep. Hayworth's office about need to contact Senator Kyle regarding this legislation . Kate Rosier Offered to contact ITCA to determine what they can do to promote this legislation.
- E. Court Forum Web Pages - Members discussed the sample web pages distributed and suggested a description of the Forum on first page, a link to a longer description entitled About the Forum, links to Forum sponsored statutes on first page: extradition and involuntary commitment, triggers for search engines, links to other state's court forums, an e-mail list serve, and a correct members list.

#### **NEW BUSINESS**

- A. Indian Law 101 Seminar - Kate Rosier informed the Forum of this education opportunity offered to state, tribal and federal judges by ASU College of Law for a cost of \$100. The proceeds are dedicated to fund the Indian Legal Programs. ILP will do a general mailing to judges.
- B. Next meeting - scheduled for March 7, 2003 form 10 A.M. to 3 P.M. at the Federal Court Building in Phoenix.

#### **ADJOURNMENT**

The meeting was adjourned at about 3:30 P.M.

**P**

**Phoenix City Hall Garage**

Enter off Washington

Private parking lots and garages are available for hourly/daily rates within walking distance of the courthouse. Please note that Washington is a one-way street heading west and 4th Avenue begins a one-way street at Washington heading south.

