

## ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM REPORT

Friday, May 20, 2005  
Sandra Day O'Connor Federal Courthouse  
Phoenix, AZ

<u>Members Present</u>	<u>Participants</u>
Hon. Gary LaRance	David L. Withey, Staff
Hon. Earl Carroll	Theresa Barrett
Hon. Leroy Bedonie	Curtis Heeter
Hon. William Canby	Kathy Brauer
Mary O'Grady	Charlene H. Greer
Kathlene Rosier	Robert Shelley
Hon. Kerry Passey for Hon. Charlene Jackson	Edd Welsh
Hon. Patrick Irvine	Hon. Roy Mendoza
Hon. Jesse Filkins	Darayne Achin
Sue Hall	Kathy Brauer
Hon. Ted Armbuster	Anna Baca

### **Call To Order and Welcome**

Judge Irvine called the meeting to order and invited members and participants to introduce themselves. Judge Carroll welcomed the Forum to the Sandra Day O'Connor Federal Courthouse.

### **Empanelment of Jurors**

Mr. Withey explained the program topic for the meeting on impanelment of jurors was intended to be an opportunity for personnel from the three court systems to share information about their methods and the issues the encounter in securing participation form jurors who reside on Indian reservations. The following persons explained the jury process in their respective court systems:

Kathy Brauer, Jury Commissioner, Superior Court of Arizona, Pima County  
Sue Hall, Clerk of Court, Superior Court of Arizona, Apache County  
C. Curtis Heeter, Staff Attorney, Chinle District Court, Navajo Nation Judiciary  
Anna Baca, Jury Administrator, United States District Court, Arizona  
Hon Kerry Passey, Associate Judge, Fort McDowell Yavapai Nation

Ms. Brauer described the challenge of creating accurate juror lists from motor vehicle and voter registration records. She indicated that the US postal service provides national change of address information for a fee and that 9 digit zip code is useful to locate people within particular city

limits or other geographical areas. Another source street by street listing of voters which can be obtained from the county election department. Ms. Brauer discussed the issue of jury commissioner discretion to excuse summoned jurors for cause and recent legislation that excuses persons over 75 years of age and otherwise relaxes previous legislation designed to hold citizens accountable for jury service. Jury service can be made flexible as to day and time of day for people with travel issue. A one day one trial rule prevents excessive waiting for jury service. Compensation is still a problem in that only mileage is paid if a juror is not seated and only \$12 per day is paid for jurors seated except for services on a lengthy trial. Ms. Brauer also mentioned the use of “scaflaw” court and fines which could be avoided by subsequently appearing for rescheduled jury service.

Ms. Hall explained the unique challenges of jury service in rural Apache County in which a drive from one end of the county to the other takes 3 1/2 to 4 hours. This distance to travel to court places demands on court staff to issue more summons to obtain the required number of jurors, on summoned jurors allow more time for jury service and on the county or the parties to pay the travel costs and hotel accommodations. In some cases the sheriff has transported jurors to court. Juror summons are enforced by orders to show cause served by a constable. This is not done on Indian reservations. Nevertheless tribal members have a comparatively good rate of response. Ms. Hall noted that zip codes do not necessarily work in Apache County since people may receive mail where they work rather than where they live.

Mr. Heater reported that requests for jury trials are rare in the Navajo Nation courts. Most offenses have been decriminalized leaving few opportunities for criminal jury trials. DUI is most likely case for jury trial due to mandatory sentence. A \$1500 cash bond is required when a jury trial is requested in a civil case. When jury trials are conducted county jury lists are used. Jurors must be excused unless they understand both English and Navajo since there are no funds to provide jurors with interpreters.

Ms. Baca reported that federal jury summons place citizens on call for one month. Persons summoned may defer jury services twice and may be excused based upon exemptions such as over 70 years of age and for cause by the judge. In the event of a failure to appear, a letter is sent scheduling jury services for the following week. An automated record is maintained for each person summoned and an order to show cause hearing is scheduled as needed. An automated telephone notification system is used to inform jurors when to appear when they call in and to provide reminders and inform of unexpected developments. Jurors are paid \$40/day in addition to mileage, hotel accommodations and meals while in jury services.

### **Walking on Common Ground: Pathway to Equal Justice Conference, Green Bay, Wisconsin July 27-29, 2005**

Mr. Withey alerted members to the national conference sponsored by the Conference of Chief Justices and the Wisconsin Supreme Court to which state and tribal judges from Arizona have been invited. Scholarship opportunities were noted.

### **Project Passport**

Judge O’Neil, Presiding Judge, Pinal County informed the Forum of the participation of Arizona

state courts in Project Passport, a national effort to develop an order of protection form front page that is readily recognizable by law enforcement authorities in all jurisdictions, including tribal jurisdictions, so these orders will be immediately enforced. Judge O'Neil suggested that tribes consider this approach consistent with tribal sovereignty and offered to meet with tribal authorities to describe the importance of this project and the plans of Arizona state courts. It was mentioned that one tribe had recently adopted order of protection forms. Judge LaRance indicated the Hopi Courts would adopt the recommended front page for its orders.

### **Tribal Laws and Courts Update**

Kate Rosier reported that an updated list of tribal judges is available on the Indian Legal Programs web site: [www.law.asu.edu](http://www.law.asu.edu) and by link from the Court forum web site.

### **State Bar Examination Indian Law Question/Issues**

Mr. Withey reported that at its last meeting the Forum learned about a request by the Indian Law Section of the State Bar to the Committee on Examinations that an Indian Law be incorporated in some manner into the State Bar Examination. Judge Irvine directed that an Indian Law Section and Committee on Examination representatives be invited to the Forum's next meeting to report on the status of the request and provide materials in advance of the next meeting.

### **Qualified Domestic Relations Orders**

Mr. Withey referred to the decision at the last meeting that pursuing Congressional legislation to resolve this issue is beyond the scope of Court forum activities. Judge Irvine directed that Forum members be asked to identify appropriate persons at national Indian organizations to whom the Forum's legislative proposal can be referred.

### **Service of Process Rule**

Judge Irvine discussed his new draft of specific rule provisions concerning service of process by on Indian reservations. He explained that this draft amends existing rules to allow Arizona long arm service by certified mail on Arizona Indian reservations as is provided for service of Arizona process in other states. These amendments track Arizona case law but do not mandate use of tribally authorized process servers.

**Next Meeting Date for the Court Forum** – Members and participants present tentatively agreed to meet on October 14, 2005 at Arizona State University College of Law..

**Adjournment** – Judge Irvine adjourned the meeting.