

**ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM**  
**State Courts Building, Room 345A/B**  
**1501 West Washington**  
**Phoenix, Arizona 85007**

**Minutes of the**  
**April 25, 2008 Meeting**

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**Court Forum Members Present:**

Hon. Patrick Irvine  
Arizona Court of Appeals, Division One

Hon. Ted Armbruster (by phone)  
Fountain Hills Municipal Court

Hon. William Canby, Jr.  
U.S. Court of Appeals, Ninth Circuit

Hon. Victor J. Clyde  
Chinle Justice Court

Sue Hall  
Clerk of Superior Court, Apache County

Pat Henson  
Public Member

Mary O'Grady  
Arizona Office of the Attorney General

Hon. William O'Neil  
Pinal County Superior Court

Kathlene M. Rosier (called in)  
Public Member

Hon. Claudette White  
Quechan Tribal Court

**Administrative Office of the Courts (AOC) Staff Present:**

David Withey

Brenda Lee Dominguez

**Participants/Visitors Present:**

Neil Flores  
Paul Julien  
Charleen Greer  
Katherine Plumb

Kerry Passey  
Edd Welsh  
Hallie Bongar White

**II. Call to Order**

Judge Irvine called the meeting to order at 10:30 a.m. Judge Irvine welcomed the attendees and invited everyone to introduce themselves.

**III. Approval of Minutes**

Judge Irvine deferred the vote on the February Minutes for the next meeting since they had not been distributed.

## **IV. Ongoing Matters**

### **A. Tribal Court Involuntary Commitment Process**

Katherine Plumb, Assistant Attorney General, provided background and a status report on this topic. Persons determined by tribal courts to require involuntarily commitment need immediate attention. The only secure facilities available on the reservations are jails. Tribal members have the right to receive treatment in a less restrictive treatment facility than the state hospital. Judge White stated that tribal members must be afforded due process and that the lack of resources to address the mental health issues is a problem on reservations.

Tribal courts typically commit directly to the state hospital thus bypassing local treatment options and the Regional Behavioral Health Authority (RBHA) process that is used with involuntary commitment initiated in the superior court. Where direct commitment to the state hospital is appropriate, specific judicial findings are needed. Otherwise the tribal court order should not specify state hospital evaluation and treatment so other alternatives may be used. There is a need increase the awareness of tribal judges of local and regional mental health treatment alternatives. RBHAs need to become aware of the tribal jurisdiction and role in involuntary commitment and of tribal culture in developing treatment options.

The goal is to create an instructional manual covering the process and protocol of the filing and enforcement of tribal court involuntary commitment orders. Meetings are ongoing between staff of DHS, the State Hospital, RBHAs, the Attorney General and the Intertribal Council of Arizona. Roll-out of training for staff of all entities involved at the local level is planned for an August timeframe.

### **B. Revocation of State Probation of Reservation Resident**

Kathlene M. Rosier maintains a document on the ASU College of Law, Indian Legal Programs website entitled “The Arizona Tribal Courts” (copy provided in packet). This document contains extradition information for tribes that responded. This process is at least one option where custody is needed by state authorities for the purposes of revoking probation. Other procedures may be available as well. Kathlene referred to another website [www.versuslaw.com](http://www.versuslaw.com), which has a good collection of tribal court opinions and laws.

### **C. Service of Process Rule**

Motion was made by Pat Henson and seconded by Judge Victor Clyde to approve filing a petition with the Arizona Supreme Court to add Rule 4.1(p) by Judge Irvin and David Withey.

## **V. New Matters**

### **A. Role of Southwest Center for Law and Policy**

Hallie Bongar White provided information to the Forum regarding The Southwest Center for Law and Policy, a non-profit primarily federal grant funded organization that she directs. The Center provides free legal training and technical assistance through conferences and articles to tribal communities and to organizations and agencies serving native people, with emphasis on domestic violence (VAWA) and victim issues (Adam Walsh Act). Their website is [www.swclap.org](http://www.swclap.org). Ms. Bongar White provided another website – [www.tlpi.org](http://www.tlpi.org), which lists tribal codes and on-site training with courts. Ms. Bongar White offered to work with the Forum, including providing resources for joint projects.

### **B. Enforcement of Tribal Court Orders**

David Withey requested information/comments on enforcement of tribal court orders of protection violated by non-Indians. Judge White stated that the enforcement of tribal court orders is a problem with conflicting orders from different courts and with the lack of law enforcement understanding of these orders. Judge Clyde stated that these orders of protection are enforced only if they are first filed in state court. Ms. Bongar White stated that her organization had worked with the Fort McDowell Yavapai Nation to have the Maricopa County Sheriff Department serve as the holder of record for tribal court orders so law enforcement will access them in the same manner as state court orders. Judge O'Neil explained that law enforcement agencies generally lack understanding of the applicability and enforceability of tribal orders of protection. He also noted that Order of Protection without data entry training from state courts has a reported 35% error rate.

Forum members discussed the option of citing a non-Indian who violates a tribal court order of protection into a state court for enforcement and punishment through an order to show cause re contempt or prosecution for the state misdemeanor of interfering with judicial proceedings by disobeying the lawful order of a court.

### **C. Judicial Education**

Paul Julien provided information to the Forum regarding the Arizona Judicial Conference held in June each year. Tribal judges are welcome to attend. The Education Services Division welcomes a diverse group of participants in all programs to enhance the education experience. Paul also described the Arizona Judicial College and the training materials available for replay on computers. We may be able to make a list of these materials available on the Forum website. It was suggested that it may be useful to have a tribal judge as a member of the judicial college board.

David Withey suggested that that Forum sponsor a seminar on the interfaces between state, tribal, and federal court jurisdiction at a future judicial conference. Pat Henson volunteered to work in the training event.

**D. Role of Indian Legal Services Program**

Judge Irvine deferred discussion of this topic to a future meeting.

**VI. Adjournment**

The next meeting will be held at the Sandra Day O'Connor U.S. Courthouse in Phoenix - the meeting date to be determined at a later date. Judge Irvine adjourned the meeting at 2:22 p.m.