

ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM REPORT

Friday, August 27, 2004
Gila River Indian Community Tribal Court
Sacaton, AZ

Members Present

Gary LaRance
Leroy Bedonie
William Canby
Donna Grimsley
Sonia Overholser for Mary O'Grady
Kathlene Rosier

Jesse Filkins
Jon Chaudhuri
William Rhodes
Victor Clyde
Ted Armbruster
Sue Hall

Participants

David L. Withey, Staff
Shannon O'Loughlin
Curtis Hecter
Jan Morris
Suzanne Matsumori
Lucinda Little

William Zukosky
Petra Sabori
Denise Carell
Dan Evans
Rick Pyrs
Debra Brockway
Hon. Tao Etpison
Spencer D. Thomas
Patty Ferguson
Darayne Achin
David Oliver

Lt. Gov. Mary Thomas
Fred Steiner

Prior to the meeting being called to order members and participants present toured the court facility and learned about some of the programs of the court.

CALL TO ORDER

The meeting was called to order by Vice-chair Hon. Gary LaRance at about 10:30 A.M.

WELCOME

Gila River Indian Community Judge William Rhodes welcomed members and participants to the court, introduced tribal judges and other officials present and a traditional blessing was said. Gila River Lt. Gov. Mary Thomas welcomed members and participants and gave her wishes for a good meeting.

INTRODUCTIONS

Judge LaRance asked members and participants to introduce themselves. Mr. Withey informed those present that Judge Carroll, Judge Irvine, Judge Kindig, and Pat Henson had expressed their regrets at their inability to attend this meeting.

Mr. Withey reported that a new Chair for the Forum had not been appointed since Judge Nelson's resignation from the bench. He explained that the Forum could recommend someone to the Chief Justice. Judge LaRance questioned whether the members wanted to make a recommendation. Judge Canby suggested and members agreed that this matter should be placed on the agenda of the next meeting.

REVIEW PENDING TASKS AND POTENTIAL NEW TASKS

Judge LaRance referred members and participants to the Court Forum web site located at <http://www.supreme.state.az.us/stfcf/> for the most complete information about past activities of the Court Forum as reflected in minutes and work product available there and about pending matters as reflected in the work group lists. Judge LaRance proceeded to review workgroup task lists and asked for explanations and updates from Mr. Withey and Tribal Laws and Courts Work Group Chair Kathleen Rosier.

Education Tasks – In addition to incorporating tribal laws and jurisdiction into the state new judge orientation materials, it was suggested that a tribal judge be added as a presenter at new judge orientation. The following tasks were suggested additions to the list distributed with the agenda:

1. General review of state benchbooks for incorporation of relevant Indian Law.
2. Expand COJET exemption from attorney CLE requirements and the judicial rate for annual Bar fees to cover tribal judges.
3. Pursue inclusion of Indian law subject matter on the State Bar exam modeled after the states of New Mexico and Washington.
4. Compile AZ tribal laws (constitutions, ordinances, court opinions) through links to materials on existing web sites with option for tribes to add additional materials.

Intergovernmental Cooperation Tasks – Mr. Withey noted that Judge Nelson had completed significant work prior to his resignation on a new rule concerning service of process on Indian reservations. A petition and proposed rules were included in the materials distributed prior to the meeting. Members noted measures are being taken concerning Non-Indian offenses on Indian reservations while proposed congressional legislation is pending such as: cross-deputization, appointment of special Asst. U.S. Attorneys, enactment of civil codes, and proposed financing of additional Asst. U.S. Attorneys by tribes. Mr. Withey reported that the inclusion of tribal orders of protection in the state database, which is available to all law enforcement officers in the state, should be added as an option (initially on a trial basis) for any tribe that has its orders of protection in a database from which they can be downloaded.

Tribal Laws and Courts Tasks – Fred Steiner suggested that a “nutshell” be prepared that contains a wide variety of information about the tribal law and the court of each Arizona tribe that wants to participate. This could include information about use of customary law. It was noted that tribal opinions are not available on Westlaw but some tribal court opinions, such as Hopi court opinions, are available electronically on Versus Law for an \$11.95 monthly subscription fee. Arizona tribes who have their opinions in a standard word processing format could provide cases for posting on an Arizona web site where they could be accessed free of charge.

Potential New Intergovernmental Cooperation Tasks – Judge LaRance asked Mr. Withey to review the potential new tasks. Mr. Withey explained that the matters listed on the page entitled “Intergovernmental Cooperation” had come up since tasks were last assigned to work groups and that they all appear to involve intergovernmental cooperation. These matters are identified as either criminal or civil. Mr. Withey noted that suspension of an Arizona driver’s license upon notice of a tribal court conviction should be added to the list. He explained that state probation supervision had emerged as a significant issue with the arming of state probation officers. He informed the Forum that new detention agreements have recently been entered between a county and a tribe and between a county and the BIA. Mr. Withey also explained that an issue had come up as to whether a legal document preparer licensed by the Arizona Supreme Court should be subject to discipline for work performed on a reservation.

Some issues were raised by members and participants. Could the Arizona driver’s license suspension be used to address failure to appear in tribal court? Would the State Bar take action against an attorney licensed in another state for the unauthorized practice of law (UPL) on a reservation? It was noted that the Navajo Nation has a tribal code provision on UPL. Should tribal advocates be authorized to represent parties in municipal and justice courts on reservations? Does the source of a marriage license (state or tribe) affect the jurisdiction of the state or tribe to dissolve the marriage?

LUNCH - Gila River Arts and Crafts Center

DIVISION INTO WORK GROUPS

Judge LaRance asked members and participants to identify the work groups in which they were interested in participating. The attached work group lists are the result of this work group selection by persons present at the meeting. At Ms. O’Grady’s request she has been assigned to all three groups with the intention that she will assign appropriate AG to participate depending on the tasks addressed. Kate Rosier agreed to continue to lead the Tribal Laws And Courts Work Group. Jon Chaudhuri offered to lead the Intergovernmental Cooperation Work Group. Mr. Withey was asked to check with Judge Kindig about leading the Education Work Group. Mr. Withey suggested that, considering the number of issues that have arisen in that area, the Intergovernmental Work Group should consider dividing into two work groups, one for criminal matters and the other for civil matters.

It was agreed that the lead member of each group would schedule at least one meeting to occur prior to the next Forum meeting for the purpose of setting priorities, completing work in progress and making recommendations concerning pending and potential tasks. Mr. Withey offered to obtain state

conference call numbers for these work group meetings that may be accessed by anyone who has the number by just calling in.

NEXT COURT FORUM MEETING

Mr. Withey suggested that the next meeting be held in January. Members present agreed that **January 21, 2005** would be the best date for that meeting. Mr. Withey indicated a likely location would be the Judicial Education Center at ASU Downtown in Phoenix.

ADJOURNMENT

Judge LaRance adjourned the meeting at about 2:45 P.M.