

Tribal-State Court Forums

Tribal-State Court Forums: An Annotated Directory, 2nd Edition

Tribal Law and Policy Institute
Updated 2020



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www.Home.TLPL.org
www.WalkingOnCommonGround.org



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A product of
Tribal Law and Policy Institute
8235 Santa Monica Blvd., Suite 211
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Introduction

Tribal and state courts interact across many issues, including child welfare, enforcement of court orders, and civil commitments. Courts are a key arena for interaction and have great potential for collaboration. Unfortunately, Tribal and state courts can disagree on jurisdictional issues and that can interfere with addressing issues of great importance to both jurisdictions. Difficult historical realities exist in some states that create a wedge that takes hard work to mend; but with collaboration comes the trust building that ultimately increases safety and justice in Indian country. Through tribal-state court forums, judges and court personnel have a venue for gathering together to foster relationships, discuss areas of mutual concern, develop legislative initiatives, and find a common ground.¹

Since the 1980s, several tribal-state, and sometimes federal, court forums have emerged. Unfortunately, while some forums flourish, others have fallen by the wayside, often due to funding constraints or the retirement of key judges or staff that sustained the forum. To explore difficulties in sustainability and to discuss training needs, the Tribal Law and Policy Institute convened a working group meeting of several forums at the 2012 Indian Nations Conference. This provided a rare opportunity for peer-to-peer training and networking among forums. It became apparent that both existing forums, as well as those that are developing, have a need for information on how other forums are organized, structured, funded, and solve problems. To that end, we have developed this annotated guide that provides information on the forums that we are aware of, including information on structure, organization, membership, and key accomplishments.

¹ For more information, visit www.WalkingOnCommonGround.org.

This annotated directory will be updated on an ongoing basis, and it is our hope that many more forums will be added to this list. *As of this 2020 edition, we are thrilled to add four new (or revived) forums to this directory—Kansas, Nebraska, Oregon, and Washington.*

There are several themes common to the forums contained within this directory. First, the forums typically developed because one or two people had a desire to address difficult problems, such as jurisdictional problems, and worked together to find common ground. There is a high level of interaction between tribal and state courts on child welfare matters pursuant to Indian Child Welfare Act (ICWA), which sets federal requirements that apply to state child custody proceedings involving an Indian child who is a member of, or eligible for membership in, a federally recognized tribe. Several forums have worked together to create trainings or materials to assist state courts with ICWA's implementation, which has also resulted in the formation of tribal-state agreements. The Michigan forum played a key role in the development of its own state legislation on ICWA.

Another common area of interest has been the recognition of tribal court orders by state courts and many forums have developed rules or protocols for this. Additionally, the forums typically have co-chairs, one from tribal court judges and one from the state court judges participating in the forum. The forums also seek to maintain an equal balance between state and tribal participants, as well as federal participants who participate in several forums. The active forums have instituted regular and consistent meetings, even if it's only one in person meeting a year. These regular meetings ensure the work of the forum moves forward. Importantly, most of the forums here have institutionalized the forum through a rule of court or some other similar mechanism, to ensure longevity of the body and sustainability beyond the career spans of their active members.

Recent law changes impacting tribal criminal jurisdiction, including the Tribal Law and Order Act and the Violence Against Women Reauthorization of 2013, make collaboration all the more crucial and courts are often at the center of action. As more tribal and state judges and court personnel come together, we hope that these relationships inspire others to use collaboration as a strategy to bridge jurisdictional gaps to improve safety in Indian country.

Tribal-State Court Forum Dos and Don'ts

(Based on the experience of the members of the Arizona Court Forum as reported by the National Center for State Courts, 1992)

Membership

- DO select forum members from various perspectives who have demonstrated interest, expertise, or experience in addressing Indian law issues.
- DON'T select forum members based only on their position within the judiciary or elsewhere.

Mutual Respect

- DO acknowledge differences between tribal and state court systems and seek ways of cooperating consistent with those differences.
- DON'T characterize either system as better or worse or more or less sophisticated than the other.

Scope

- DO proceed in phases with predetermined time frames, including a study phase in which issues are identified, before implementing recommendations.
- DON'T devote resources to implementation until a consensus is reached concerning priority issues and recommendations.

Persistence

- DO design a process that invites broad-based participation in identifying issues and making recommendations.
- DON'T be discouraged by lack of participation or lack of progress.

Performance

- DO assign manageable tasks to forum members or subcommittees to be accomplished within established time frames.
- DON'T delay too long before dividing the work of the forum into tasks that can be accomplished within the time frames established.

Solutions

- DO emphasize creative solutions to jurisdictional issues that avoid litigation and are consistent with the rights of the parties, sovereignty, and judicial independence.
- DON'T emphasize jurisdictional limitations.

Communications

- DO emphasize person-to-person communication and education to address jurisdictional issues.
- DON'T seek to address jurisdictional issues solely through large-scale change in the law or legal systems.

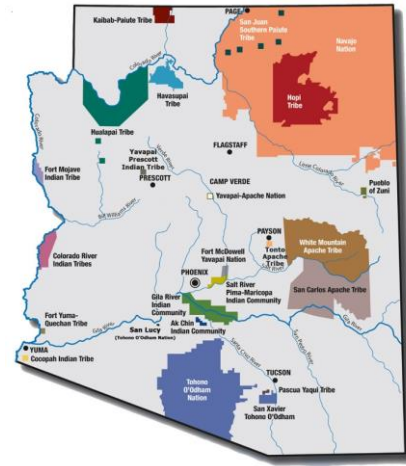
Arizona

Federal, State, and Tribal Court Forum

Founded: 1990

Forum Description:

There are twenty-one federally recognized tribes within Arizona. While not an original Public Law 280 (PL-280) state, Arizona attempted to assume PL-280 regulatory jurisdiction over air and water pollution; in 2003 the U.S. Supreme Court made it



clear that PL-280 did not encompass state regulatory jurisdiction of that type.² Arizona is no longer attempting to exercise any PL-280 jurisdiction. The Arizona State and Tribal Court Forum formed in 1990, under the Conference of Chief Justices, which recommended an ongoing colloquium. The forum allows for cooperation and communication among state, tribal, and federal judges to improve the quality of justice delivered in overlapping jurisdictions. Membership includes federal judges, state judges, tribal judges, attorneys, and public members. The official purposes of the forum are:

Purposes

1. To foster mutual understanding and acceptance by state, tribal, and federal judges of the similarities and differences between each other's courts and legal

² *Bryan v. Itasca County*, 426 U.S. 373 (1976).

systems, particularly pertaining to the resolution of jurisdictional issues.

2. To promote improvement in the quality of justice delivered in the context of the overlapping jurisdiction of state, tribal, and federal courts through judicial education, professional court administration, education of attorneys and the public about tribal courts, and the sharing of personnel, facilities, and programs, as well as state, tribal, and federal funding, as appropriate.
3. To promote respect for and recognition of the judicial proceeding and judgments among the three court systems to minimize the need for litigation regarding jurisdictional issues.
4. To increase operational communication, cooperation, and coordination among state, tribal, and federal courts and other justice agencies in Arizona.
5. To promote legislative, regulatory, and court rule changes to further the coordination of and cooperation among the three court systems.
6. Any other purposes deemed by a majority of forum members to be in the best interests of state, tribal, and federal courts and of the justice system serving the citizens of Arizona affected by the interaction of these three systems.

In 1994 the Chief Judges of the U.S. 9th Circuit Court of Appeals and the District Court of Arizona appointed judges to serve in line with the conference recommendation.

The forum meets three times each year and addresses a seemingly limitless set of issues that are brought to the forum by others or raised by members. Historically, the forum has worked on issues such as:

- Orders of protection;
- Enforcement of tribal court involuntary commitment orders;
- Indian law questions on the state bar exam;
- Creating civil remedies;
- Judicial protocol for allocating jurisdiction between state and tribal courts;
- Resolving tribal-state jurisdictional dilemmas;
- Extradition of persons to and from Indian country;
- Qualified domestic relations orders; and
- Rules of procedure for recognition of tribal court judgments.

Key Accomplishments

- ✓ Judicial roundtable with state and tribal juvenile judges.
- ✓ Regional cross-jurisdictional community supervision summits.
- ✓ Enforcement of tribal court involuntary commitment orders.
- ✓ Indian law questions on the state bar examination.
- ✓ Extradition statute for persons to and from Indian jurisdiction.
- ✓ State rule on certification of questions of law from federal and tribal courts.
- ✓ State rule for the recognition of tribal court civil judgments.
- ✓ Arizona ICWA Manual.

Forum Membership:

The court forum consists of four federal members, six state members, at least seven tribal members, one state bar member, and two public members. The federal members include a judge of the Ninth Circuit Court of Appeals appointed by the Chief Judge of the Circuit, a judge of the District of Arizona appointed by the Chief Judge of the District, the U.S. Attorney or designee, and the Federal Public Defender or designee. The state members include an appellate judge, three trial court judges, and a clerk of the Superior Court or deputy clerk appointed by the Chief Justice and the Arizona Attorney General or designee. The tribal members include at least seven chief judges or justices or their designees who express interest in forum membership and who are appointed by the Chief Justice.

2019 Member Roster:

Hon. Ryan Andrews
Chief Judge
Salt River Pima—Maricopa
Indian Community Court

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

Hon. Victor Antone
Chief Judge
Gila River Indian
Community Court

Hon. Victor Clyde
Judge
Chinle Justice Court

Hon. Brian Burke
Judge
Ak-Chin Indian
Community Court

Hon. Karla S. Comanche
Chief Judge
San Carlos Apache
Tribal Court

Hon. Kyle Fields
Deputy Chief Judge
Tohono O’odham
Judicial Court

Hon. Randall Howe
Judge
Arizona Court of Appeals,
Division 1

Hon. Lawrence King
Chief Judge
Colorado River Indian
Tribal Court

Hon. Donna Kisto-Jones
Chief Judge
Gila River Indian
Community Court

Hon. Michael Latham
Judge
Apache County
Superior Court

Hon. Delfred Leslie
Judge
Hopi Tribal Court

Maria Morlacci
Assistant Attorney General
Arizona Office of the
Attorney General

Hon. David M. Osterfeld
Judge
White Tank Justice Court

Hon. Kerry Passey
Chief Judge
Yavapai Nation Tribal Court

Deanne Romo
Clerk of Superior Court,
Navajo County

Kiyoko Patterson
Assistant U.S. Attorney
U.S. Attorney's Office
District of Arizona

Hon. Douglas Rayes
Federal Judge
U.S. District Court
District of Arizona

Hon. Ted Reed
Judge
Coconino County
Superior Court
Division 1

Kate Rosier
Public Member

Jon Sands
Chief Federal Public
Defender
District of Arizona

Virjinya Torrez
State Bar Member

Hon. Wayne Yehling
Judge
Superior Court,
Pima County

Funding Source:

Staff support for the forum is provided by the Arizona's Administrative Office of the Courts (AOC) while members are responsible for their own travel.

Website:

www.azcourts.gov/stfcf/Home.aspx

Contact Information:

David Withey

Arizona Supreme Court, AOC

1501 W. Washington

Phoenix, AZ 85007

Phone Number: 602-452-3325

E-mail Address: dwithey@courts.az.gov

Arizona Authorizing Documents

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ARIZONA CODE OF JUDICIAL) Administrative Order
ADMINISTRATION § 1-801:) No. 2007 - 25
STATE, TRIBAL AND FEDERAL) (Replacing
COURT FORUM) Administrative Order
) No. 2004-36)
_____)

The above captioned provision having come before the Arizona Judicial Council on March 6, 2007, and having been approved and recommended for adoption,

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the above captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration, replacing Administrative Order No. 2004-36.

Dated this 15th day of March, 2007.

RUTH V. MCGREGOR
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 1: Judicial Branch Administration
Chapter 8: Intergovernmental Relations
Section 1-801: State, Tribal and Federal Court Forum

- A. General Purpose.** *The State, Tribal and Federal Court Forum (STFCF) is established to create an ongoing colloquium between state, tribal and federal judiciaries regarding the interaction of state, tribal and federal court jurisdiction in Arizona.*
- B. Membership.** *STFCF shall include the following members:*
1. *Four federal members, including:*
 - a. *One Ninth Circuit Court of Appeals judge appointed by the chief judge of the circuit;*
 - b. *One District of Arizona judge appointed by the chief judge of the district;*
 - c. *The United States Attorney or designee; and*
 - d. *The Federal Public Defender or designee.*
 2. *Eight state members, including:*
 - a. *One appellate judge;*
 - b. *Five trial court judges of general and limited jurisdiction courts;*
 - c. *A clerk of superior court or deputy clerk appointed by the chief justice; and*
 - d. *The attorney general or designee.*
 3. *A minimum of eight tribal members appointed by the chief justice; including:*
 - a. *At least eight chief judges, chief justices or designees; and*
 - b. *Any additional chief judges, chief justices or designees who express interest in forum membership.*
 4. *One State Bar of Arizona, Indian Law Section member; and*
 5. *Two public members.*
- C. Term.** *State and tribal court members and the public members shall be appointed to a three year term. Members serving due to office held, by appointment of an officer other than the chief justice, or by*

designation of an officer entitled to membership, shall not have a term.

D. Responsibilities.

1. To foster mutual understanding and acceptance by state, tribal and federal judges of the similarities and differences between each other's courts and legal systems, particularly pertaining to the resolution of jurisdictional issues.

2. To promote improvement in the quality of justice delivered in the context of the overlapping jurisdiction of state, tribal and federal courts through judicial education, professional court administration, education of attorneys and the public about tribal courts, and the sharing of personnel, facilities and programs, as well as state, tribal and federal funding, as appropriate.

3. To promote respect for and recognition of the judicial proceedings and judgments among the three court systems in order to minimize the need for litigation regarding jurisdictional issues.

4. To increase operational communication, cooperation and coordination among state, tribal and federal courts and other justice agencies in Arizona.

5. To promote legislative, regulatory and court rule changes to further the coordination of and cooperation among the three court systems.

6. Any other duties deemed by a majority of forum members to be in the best interests of state, tribal and federal courts and of the justice system serving the citizens of Arizona affected by the interaction of these three systems.

E. Organization. *The chief justice shall appoint one of the members to chair the forum. The chair shall appoint a member to serve as vice-chair.*

California

Tribal-State Forum



Founded: 2010

Forum Description:

There are approximately 110 federally recognized tribes within California, three state-recognized tribes, and approximately one hundred non-recognized Native communities seeking

recognition. The Tribal Court–State Court Forum was launched in May 2010, and became institutionalized as an advisory committee to the California Judicial Council in January 2014. What began with a simple request by one tribal court judge for a meeting with the Chief Justice of the State of California has led to the coming together of tribal court and state court leaders as equal partners to address areas of mutual concern. The forum is a coalition of the various tribal courts situated in California and California courts that come together as equal partners to address issues common to both relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases that might appear in either court system, and the sharing of services between jurisdictions.

The forum is co-chaired by a tribal court judge and state court judge and meets annually in person and bimonthly by conference call. The forum is convened for the express purpose of improving the working relationship between its members and Tribal-State Court Forums—*California*

enabling the courts of each to issue and enforce their respective orders to the fullest extent allowed by law. The forum makes recommendations, including legislative and rule/form proposals, to the California Judicial Council either directly or jointly with the appropriate, relevant advisory committees. The forum makes recommendations to the council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps.

Duties of the forum include:

1. Identifies issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California;
2. Makes recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases that might appear in either court system, and the sharing of services between jurisdictions;
3. Identifies, develops, and shares with tribal and state courts local rules of court, protocols, standing orders, and other agreements that promote tribal court–state court coordination and cooperation, the use of concurrent jurisdiction, and the transfer of cases between jurisdictions;
4. Recommends appropriate activities needed to support local tribal court–state court collaborations; and
5. Makes proposals to the Governing Committee of the Center for Judicial Education and Research on educational publications and programming for judges and judicial support staff.

Key Accomplishments

- ✓ Monthly Forum E-Update.
- ✓ Tribal/State/Federal Court Administrator Toolkit.
- ✓ Curriculum on civil and criminal jurisdiction in a PL-280 state.
- ✓ Collection of tribe-specific data and information.
- ✓ Tribal court directory.
- ✓ Cross-cultural court exchanges.
- ✓ Documentary on tribal justice.
- ✓ Joint Jurisdictional Family Wellness Court.
- ✓ Rule governing Title IV-D case transfers to tribal court.
- ✓ Tribal Court Civil Money Judgment Act.
- ✓ Focus on domestic violence: recognition and enforcement of protective orders.
- ✓ Statewide needs assessment on domestic violence.
- ✓ California Courts protective-order registry.
- ✓ Domestic Abuse Self-Help Tribal Project.
- ✓ Adoption of Rule 5.386 ensuring efficient and consistent process.
- ✓ Jurisdictional tools for law enforcement and judges.
- ✓ Information Bulletin on Recognition and Enforcement of Tribal Protection Orders.
- ✓ Judicial toolkit on federal Indian law.
- ✓ PL-280 and family violence curriculum for judges.
- ✓ Tribal advocates curriculum.
- ✓ Tribal communities and domestic violence judicial benchguide.
- ✓ SB 940: California Conservatorship Jurisdiction Act.
- ✓ Published *Tribal Elder Abuse Benchguide*.
- ✓ Focus on juvenile cases: rule proposals, legislative proposals, and legislative reports in juvenile appeals.

Forum Membership:

The thirty-one-member advisory committee is comprised of fourteen tribal court judicial officers, appointed by their tribal leadership, representing sixteen of the twenty-two tribal courts currently operating in California; the director of the California Attorney General’s Office of Native American Affairs; the tribal advisor of the California governor; and fourteen state court judicial officers, including the chairs or their designees of the California Judicial Council’s Family and Juvenile Law Advisory Committee, Access and Fairness Advisory Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Probate and Mental Health Advisory Committee, Traffic Advisory Committee, representatives of the local courts in counties where many of the tribal courts are situated, and a retired judge. The committee reports directly to the Judicial Council. The California Chief Justice appoints the state court judicial officers and nonjudicial members. The current membership term runs until September 14, 2016.

2020 Member Roster:

Co-Chair:

Hon. Abby Abinanti
(Yurok)
Chief Judge
Yurok Tribal Court

Hon. Erin K. Alexander
Judge
Superior Court of California,
County of San Bernardino

Co-Chair:

Hon. Suzanne N. Kingsbury
Presiding Judge of the
Superior Court of California,
County of El Dora

Hon. April E. Attebury
(Karuk)
Judge and Court
Administrator
Karuk Tribal Court

Hon. Richard C. Blake,
(Hoopa, Yurok, Karuk)
Chief Judge
Redding Rancheria Tribal
Court

Hon. Leona Colegrove,
Chief Judge
Elk Valley Rancheria Tribal
Court and the Hoopa Valley
Tribal Court

Hon. Hilary A. Chittick
Judge
Superior Court of California
County of Fresno

Hon. Gail Dekreon
Judge
Superior Court of California
County of San Francisco

Hon. Leonard P. Edwards
(Retired)
Volunteer Mentor Judge
Center for Families,
Children and the Courts
Judicial Council of California

Hon. Gregory J. Elvine-Kreis
Judge
Superior Court of California
County of Humboldt

Hon. Patricia Guerrero
Associate Justice
Court of Appeal
Fourth Appellate District
Division One

Ms. Heather Hostler
Director
California Department of
Social Services
Office of Tribal Affairs

Hon. Mark A. Juhas
Judge
Superior Court of California
County of Los Angeles

Hon. Kristina Kalka
Judge
Northern California
Intertribal Court System
Hopland Band of Pomo
Indians

Hon. Lawrence C. King
Chief Judge
Colorado River Indian
Tribes
Parker, Arizona

**Hon. Jayne Chong-Soon
Lee**
Judge
Superior Court of California
County of San Joaquin

Hon. Patricia Lenzi

Chief Judge
Cedarville Rancheria of
Northern Paiute Indians
Tribal Court
Alturas, California

Hon. Devon L. Lomayesva

Chief Judge
Intertribal Court of
Southern California

Hon. Gilbert G. Ochoa

Judge
Superior Court of California
County of San Bernardino

Hon. Michael A. Sachs

Assistant Presiding Judge
Superior Court of California
County of San Bernardino

Hon. Cindy Smith

Judge
Morongo Band of Mission
Indians

Ms. Christina E. Snider

Tribal Advisor
Office of Governor, Gavin
Newsom
Executive Secretary
Native American Heritage
Commission

Hon. Sunshine S. Sykes

Judge
Superior Court of California
County of Riverside

Hon. Robert J. Trentacosta

Assistant Presiding Judge
Superior Court of California
County of San Diego

Hon. Juan Ulloa

Judge
Superior Court of California
County of Imperial

Hon. Mark Vezzola

Chief Judge
Chemehuevi Tribal Court

Hon. Claudette C. White

(Quechan)
Chief Judge
Quechan Tribal Court
San Manuel Tribal Court

Hon. Christine Williams

(Yurok)
Chief Judge
Shingle Springs Tribal Court

Hon. Joseph J. Wiseman

Chief Judge of the Round
Valley Indian Tribe and Tule
River Tribe

Funding Source:

The forum is supported with funds from the Office on Violence Against Women, U.S. Department of Justice that are administered through the Governor’s Office of Emergency Services, the U.S. Department of Health and Human Services, Court Improvement Program, and the California Department of Social Services.

Website:

www.courts.ca.gov/3065.htm

The California forum has many useful documents on their website, including legislation proposed by the forum.

Contact Information:

Ann Gilmour

Attorney and Lead Staff

Center for Families, Children, and the Courts

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California Authorizing Documents

Rule 10.60. Tribal Court-State Court Forum

(a) Area of focus

The forum makes recommendations to the council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps.

(b) Additional duties

In addition to the duties described in rule 10.34, the forum must:

- (1) Identify issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California;*
- (2) Make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases that might appear in either court system, and the sharing of services between jurisdictions;*
- (3) Identify, develop, and share with tribal and state courts local rules of court, protocols, standing orders, and other agreements that promote tribal court-state court coordination and cooperation, the use of concurrent jurisdiction, and the transfer of cases between jurisdictions;*
- (4) Recommend appropriate activities needed to support local tribal court-state court collaborations; and*
- (5) Make proposals to the Governing Committee of the Center for Judicial Education and Research on educational publications and programming for judges and judicial support staff.*

(c) Membership

The forum must include the following members:

- (1) Tribal court judges or justices selected by tribes in California, as described in (d), but no more than one tribal court judge or justice from each tribe;*

(2) At least three trial court judges from counties in which a tribal court is located;

(3) At least one appellate justice of the California Courts of Appeal;

(4) At least one member from each of the following committees: the Access and Fairness Advisory Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Family and Juvenile Law Advisory Committee, Governing Committee of the Center for Judicial Education and Research, Probate and Mental Health Advisory Committee, and Traffic Advisory Committee; and

(5) As ex officio members, the Director of the California Attorney General's Office of Native American Affairs and the Governor's Tribal Advisor.

The composition of the forum must have an equal or a close-to-equal number of judges or justices from tribal courts and state courts.

(d) Member Selection

(1) The Chief Justice appoints all forum members, except tribal court judges and tribal court justices, who are appointed as described in (2).

(2) For each tribe in California with a tribal court, the tribal leadership will appoint the tribal court judge or justice member to the forum consistent with the following selection and appointment process.

(A) The forum cochairs will notify the tribal leadership of a vacancy for a tribal court judge or justice and request that they submit names of tribal court judges or justices to serve on the forum.

(B) A vacancy for a tribal court judge or justice will be filled as it occurs either on the expiration of a member's term or when the member has left the position that qualified the member for the forum.

(C) If there are more names of tribal court judges and justices submitted by the tribal leadership than vacancies, then the

forum cochairs will confer and decide which tribal court judges or justices should be appointed. Their decision will be based on their various backgrounds and experiences, as well as the geographic location, of the current membership.

(e) Cochairs

The Chief Justice appoints a state appellate justice or trial court judge and a tribal court appellate justice or judge to serve as cochairs, consistent with rule 10.31(c).

Rule 10.60 adopted effective October 25, 2013.

Judicial Council Comment

*Tribes are recognized as distinct, independent political nations (see *Worcester v. Georgia* (1832) 31 U.S. 515, 559, and *Santa Clara Pueblo v. Martinez* (1978) 436 U.S. 49, 55, citing *Worcester*), which retain inherent authority to establish their own form of government, including tribal justice systems. (25 U.S.C.A. § 3601(4).) Tribal justice systems are an essential part of tribal governments and serve to ensure the public health and safety and the political integrity of tribal governments. (25 U.S.C.A. § 3601(5).) Traditional tribal justice practices are essential to the maintenance of the culture and identity of tribes. (25 U.S.C.A. § 3601(7).)*

*The constitutional recognition of tribes as sovereigns in a government-to-government relationship with all other sovereigns is a well-established principle of federal Indian law. (See *Cohen's Handbook of Federal Indian Law* (2005) p. 207.) In recognition of this sovereignty, the council's oversight of the forum, through an internal committee under rule 10.30(d), is limited to oversight of the forum's work and activities and does not include oversight of any tribe or tribal court.*

Idaho

Tribal-State Court Forum



Source: <http://www.isc.idaho.gov/tribal-state/tribalcourt>

Founded: 1993

Forum Description:

There are five federally-recognized Indian tribes - the Kootenai Tribe of Idaho, the Coeur d'Alene Tribe, the Nez Perce Tribe, the Shoshone-Bannock Tribes, and the Shoshone Paiute Tribes - located in Idaho. In 1963, pursuant to Public Law 83-280 (PL-280), Idaho enacted Idaho Code Section 67-5101. This code section created concurrent jurisdiction of tribal and state courts in seven areas: compulsory school attendance; juvenile delinquency and youth rehabilitation; dependent, neglected, and abused children; "insanities" and mental illness; public assistance; domestic relations; and the "operation and management of motor vehicles upon highways and roads maintained by the county or state, or political subdivisions thereof." This concurrent jurisdiction occasionally creates conflicts between tribal and state court orders and competing jurisdictions. The process for recognizing, respecting, and enforcing state and tribal court orders, on and off reservations, can be complicated, problematic, and costly.

Idaho's Tribal State Court Forum was established by the Idaho Supreme Court with goals to encourage interaction, enhance understanding, and reduce jurisdictional conflicts between state and tribal courts with the following mission statement:

1. To foster mutual respect, understanding, and collaboration in order to minimize conflict among tribal, federal, and state justice communities;
2. To educate states and tribes on processes that promote cooperation in problem-solving; and
3. To promote state-tribal interaction and cooperation in order to ensure equal access to justice.

By bringing the judges, lawyers, and professors together at forum meetings, participants are able to discuss common issues and concerns, appreciate the differences between the respective court systems, explore ways to bridge those differences, and form relationships with colleagues in other courts. The forum is also charged by the Idaho Supreme Court to report to the Court “on actions taken as well as recommendations for legislative and rule changes, budget enhancements and significant policy improvements.”

The forum meets annually and as needed to discuss current issues of importance to tribal and state courts. Agendas have included case law updates, the ICWA, Violence Against Women Act (VAWA), relationships between the courts and governmental agencies, criminal and civil jurisdiction, extradition, juvenile justice issues, PL-280 jurisdiction and the effects of potential partial or total retrocession, reciprocity, domestic violence, protection orders, full faith and credit, comity, and cross-deputizing tribal and law enforcement officers. Hosting forum meetings alternates between the Idaho Supreme Court and one of the tribal courts.

Key Accomplishments

- ✓ Idaho Tribal-State Court Bench Book 2014 Edition.
- ✓ As a committee of the State Supreme Court, the forum can propose rules and action to the Supreme Court’s Administrative Conference for consideration.
- ✓ Standardized domestic violence protection orders.

Forum Membership:

The members serve at the pleasure of the Chief Justice of the Idaho Supreme Court and consist of:

- Tribal court judges from the Kootenai Tribe of Idaho, the Coeur d’Alene Tribe, the Nez Perce Tribe, the Shoshone-Bannock Tribes, and the Shoshone Paiute Tribes;
- State court judges from areas adjacent to Indian country;
- A representative from the U.S. District Court for Idaho; and
- Legal scholar consultant.

2019 Member Roster:

Co-Chair:

Hon. John C. Judge
Latah County
Magistrate Judge

Debra J. Alsaker-Burke
Statewide Child Protection
Manager
Idaho Supreme Court

Co-Chair:

Douglas R. Nash
Former Law Professor
Tribal Judge
Trial and Appellate

Hon. Leo Ariwite
Associate Judge
Shoshone-Bannock Tribes

Hon. Lunita “Cookie”

Ariwite

Chief Judge
Shoshone-Bannock Tribes

Hon. Ryan Boyer

(Senior Status)
Former Magistrate Judge
7th Judicial District of Idaho
Bingham County

Hon. Ronald Bush

Chief Magistrate Judge
United States District Court
District of Idaho

Hon. Calvin Hatch

Chief Judge
Shoshone-Paiute Tribes

Dylan Hedden-Nicely

Consultant to Forum
University of Idaho
College of Law

Hon. David Hooste

Magistrate Judge
6th Judicial District of Idaho
Oneida County

Cynthia Jordan

Attorney
Coeur d’Alene Tribe

Deena Layne

Reporter
Idaho Supreme Court

Hon. Ken Nagy

Associate Judge
Coeur d’Alene Tribe

Hon. Jeff P. Payne

Magistrate Judge
2nd Judicial District of Idaho
Idaho County

Hon. Robert E. Wakefield

Chief Judge
Coeur d’Alene Tribe

Hon. Scott Wayman

District Judge
1st Judicial District Court
Shoshone County

Hon. Eva White

Chief Judge
Nez Perce Tribe

Miren Unsworth

Deputy Administrator
Department of Health and
Welfare
Division of Family and
Community Services Child
Welfare Program

Funding Source:

The Idaho Supreme Court provides a small budget that pays for travel and expenses for state employees to attend meetings once a year.

Website:

www.isc.idaho.gov/tribal-state/tribalcourt

Contact Information:

Hon. John C. Judge

Co-Chair, Idaho Tribal-State Court Forum

Latah County District Court

P.O. Box 8068

Moscow, ID

Phone Number: (208) 883-2255

Fax: (208) 236-7243

E-mail Address: jjudge@latah.id.us

Idaho Authorizing Documents

In the Supreme Court of the State of Idaho

IN RE: FORMATION OF A NEWLY)
ESTABLISHED TRIBAL COURT-STATE)
COURT FORUM ORDER)
_____)

The Court, having received a request and recommendation from Hon. Fred Gabourie and Hon. Gaylen Box, with the concurrence of Chief Justice Roger Burdick that the Tribal Court-State Court Forum be re-established.

IT IS HEREBY THE ORDER OF THE COURT that the following persons be invited by Co-Chairmen Gabourie and Box to join the Tribal Court-State Court Forum to accomplish the following mission:

- 1) To foster mutual respect, understanding and collaboration in order to minimize conflict among tribal, federal and state justice communities;*
- 2) To educate states and tribes on processes that promote cooperation in problem-solving; and*
- 3) To promote state-tribal interaction and cooperation in order to ensure equal access to justice.*

IT IS FURTHER ORDERED that the Tribal Court-State Court Forum shall meet regularly and shall report periodically to the Court and to 1he Administrative Conference on actions taken as well as recommendations for legislative and rule changes, budget enhancements and other significant policy improvements.

IT IS FURTHER ORDERED that, upon acceptance, the following persons are appointed as members of the Tribal Court-State Court Forum, to serve until further order of the Court to serve until further order of the Court:

TRIBAL REPRESENTATIVES

Hon. Fred Gabourie Sr. — Co-Chairman of the Forum

Address: PO Box 10

Worley, ID 83876

Former Chief Judge, Kootenai Tribe retired

Appellate Judge Shoshone Bannock Tribe

Phone: (208) 691-0116

FAX: (509) 922-0814

E-Mail Address: [whitedeer @q.com](mailto:whitedeer@q.com)

Hon. Mary Pearson

Address:

Nine Mile Falls, WA 99026

Former Chief Judge, Coeur d'Alene Tribe, retired

Appellate Judge Shoshone Bannock Tribe

Phone: (509) 990-4214

E-Mail Address: mary0808@msn.com

Hon. Marina FastHorse—Shoshone-Bannock Tribe

Address: P.O. Box 306

Fort Hall, ID 83203

Chief Judge, Shoshone-Bannock Tribal Court

Phone: (208) 236-1066

FAX: (208) 238-1153

E-Mail Address: mfasthorse@sbtribes.com

**Chief Judge and/or General Council Chairperson's
Designee—Nez Perce Tribe**

**Chief Judge and/or Tribal Council Chairperson's
Designee—Kootenai Tribe**

**Chief Judge and/or Tribal Council Chairperson's
Designee—Coeur d'Alene Tribe**

**Chief Judge and/or Tribal Council Chairperson's
Designee—Northwestern Band of the
Shoshone Nation**

**Chief Judge and/or Tribal Business Council's
Chairperson's Designee—Shoshone-Paiute
Tribes**

Leo Ariwite-Shoshone-Bannock Tribe Judicial Council

Address: P.O. Box 306

Fort Hall, ID 83203

Chairman, Shoshone-Bannock Tribal Court Judicial Council

Phone: (208) 478-4062

E-Mail Address: duivich@yahoo.com

Douglas Roger Nash

Address: PO Box 222000

Seattle, WA 98122

Firm: Institute for Indian Estate Planning & Probate

Phone: (206) 398-4284 Ext.

FAX: (206) 398-4077

E-Mail Address: dnash@seattleu.edu

Website Address: www.indianwills.org

STATE REPRESENTATIVES

Hon. Gaylen L. Box—Bannock County Sixth District-Co-Chairman of the Forum

Address: 624 E. Center

Pocatello, ID 83201

Bannock County Magistrate Court

Phone: (208) 236-7255

FAX: (208) 236-7243

E-Mail Address: gaylenb@co.bannock.id.us

Hon. Ronald E. Bush—United States District Court

Address:

Boise, ID 83724

Firm: U.S. Courts, District of Idaho

Phone: (208) 334-9150 Ext.

FAX: (208) 334-9215

E-Mail Address: ronaldbush@id.uscourts.gov

Hon. John Luster—Kootenai County First District

Address: PO Box 9000

Coeur d'Alene, ID 83816-9000

District Judge, First District Court

Phone: (208) 446-1107

FAX: (208) 446-1119

E-Mail Address: jluster@co.kootenai.id.us

Hon. John Judge—Latah County Second District

Address: PO Box 8068

Moscow, ID 83843

Latah County Magistrate Court

Phone: (208) 883-2255

FAX: (208) 883-2259

E-Mail Address: jjudge@latah.id.us

**Hon. John Varin—Idaho Supreme Court, Alternative
Sentencing and Problem Solving Courts**

Address: PO Box 190

Fairfield, ID 83327

ISC: Alternative Sentencing, Problem Solving Courts

Phone: (208) 764-2285

FAX: (208) 947-7590

E-Mail Address: jvarin@idcourts.net

**Debra J. Alsaker-Burke—Idaho Supreme Court, Children and
Families in the Courts**

Address: PO Box 83720

Boise, ID 83720-0101

Idaho Supreme Court

Phone: (208) 947-7457

FAX: (208) 947-7416

E-Mail Address: dburke@idcourts.net

Hon. Ryan Boyer—Bingham County Seventh District

Address:

Blackfoot, ID 83221-1700

Bingham County Magistrate Court

Phone: (208) 782-3121 Ext.

FAX: (208) 782-3167

E-Mail Address: rboyer@co.bingham.id.us

Hon. Jeff P. Payne—Idaho County-Second District

Address:

Grangeville, ID 83530

Idaho County Magistrate Court

Phone: (208) 983-2776 Ext.

FAX: (208) 983-2376

E-Mail Address: jpavne@idahocountv.org

IT IS FURTHER ORDERED that the following individuals be appointed as Consultant to the forum, and as the Reporter to the forum.

Prof. Angelique EagleWoman—Consultant to the Forum (non-voting)

Address: University of Idaho College of Law

Moscow, ID

Associate Professor of Law

Phone: (208) 885-7634

E-Mail: eaglewoman@uidaho.edu

Kimberly D. Halbig-Sparks-Idaho Supreme Court, Deputy Legal Counsel-Reporter (non-voting)

Address: PO Box 83720

Boise, ID 83720-0101

Attorney Idaho Supreme Court

Phone: (208) 947-7408

FAX: (208) 334-2146

E-Mail Address: ksparks@idcourts.net

Dated this 8th day of January, 2013.

Kansas

Tribal-State Judicial Forum



Founded: 2016

Forum Description:

The Kansas Tribal-State Judicial Forum was founded in 2016 as a juridical advisory committee under the state’s judicial council. The Kansas forum was created to encourage greater understanding and exchange of information between the tribal and state judicial systems in Kansas. The Tribal-State Judicial Forum is a vehicle for expanding tribal and state court judges’ knowledge of the respective judicial systems; identifying and discussing issues regarding court practices, procedures, and administration that are of common concern to members of tribal and state judicial systems; and cultivating mutual respect for and cooperation between tribal and state judicial systems.

Key Accomplishments

- ✓ Provided training to state court judges on Indian Child Welfare Act (ICWA) Guidelines at the 2018 Judicial Conference.
- ✓ Recommended amendments to Supreme Court Rule 116, which created an exemption allowing an out-of-state attorney representing a tribe, parent, or Indian custodian in an ICWA proceeding to file a motion for admission *pro hac vice* to appear in a Kansas court without paying the application fee or associating with a Kansas attorney. The amended rule went into effect May 8, 2019.
- ✓ Statute passed that requires district courts to offer full faith and credit to tribal court judgments pursuant to Supreme Court Rule. (K.S.A 60-3020, effective July 1, 2019.) Submitted proposed implementing rule to the Supreme Court for consideration.

Forum Membership:

The forum membership includes one tribal court judge from each participating federally recognized tribe that holds court proceedings within the state of Kansas (which includes four Kansas-based tribes, and one Oklahoma-based tribe that holds court proceedings in the state). The forum invites each tribe to appoint a tribal judge to participate in the forum. The forum can invite the tribes to participate but cannot dictate whether a

tribe chooses to participate or how it will appoint its representative.

State court judges are appointed by the Judicial Council. The number of state court judge members equals the number of participating tribal court judges; and any judge of the district court, including a magistrate judge, can be appointed.

Because the number of state judge members is dictated by the number of participating tribes, if a tribe chooses not to participate resulting in an unequal representation of state and tribal interests, the state judge who most recently joined the forum should no longer be a voting member of the forum. However, the former member is allowed to continue to participate in the forum as an advisory member if the former member and the forum approves.

The forum selects two co-chairs: one state judge member and one tribal judge member by a majority vote for a two-year term. The two selected members alternate between being the chair and vice-chair each calendar year.

2019 Member Roster:

Hon. Rick L. Barnes
Chief Justice
Delaware Tribal Court
Ochelata, Oklahoma

Hon. Steven R. Ebberts
District Court Judge
Kansas 3rd Judicial District
Topeka, Kansas

Hon. Blaine A. Carter
District Magistrate Judge
Kansas 2nd Judicial District
Alma, Kansas

Hon. Steven Hager
Chief Judge
Kickapoo Tribe in Kansas
Oklahoma City, Oklahoma

Hon. Lisa Otipoby Herbert

Judge
Iowa Tribe of Kansas and
Nebraska
Ponca City, Oklahoma

Hon. James A. Patton

District Judge
Kansas 22nd Judicial District
Hiawatha, Kansas

Hon. Peggy Kittel

District Judge
Kansas 7th Judicial District
Lawrence, Kansas

Hon. Charles Tripp

Judge
Prairie Band Potawatomi
Nation
Owasso, Oklahoma

Funding Source:

The Kansas Judicial Council pays for travel expenses for meetings and provides funding for staffing.

Website:

<https://www.kansasjudicialcouncil.org/about/advisory-committees/tribal-state-judicial-forum>

Contact Information:

Nancy J. Strouse
Executive Director
Kansas Judicial Council
301 SW 10th Avenue, Suite 140
Topeka, KS 66612-1507
Phone Number: 785-296-2498
E-mail Address: nancy.strouse@ks.gov

Kansas Tribal-State Judicial Forum Bylaws

Kansas Tribal-State Judicial Forum is created to encourage greater understanding and exchange of information between the tribal and state judicial systems in Kansas. The Kansas Tribal-State Judicial Forum is a vehicle for expanding tribal and state court judges' knowledge of the respective judicial systems; identifying and discussing issues regarding court practices, procedures, and administration that are of common concern to members of tribal and state judicial systems; and cultivating mutual respect for and cooperation between tribal and state judicial systems.

Section 1. Purpose

The Kansas Tribal-State Judicial Forum is established as a subcommittee of the Kansas Judicial Council for the following purposes:

- 1) To foster mutual respect, understanding, and collaboration among tribal and state justice communities.
- 2) To serve as a vehicle for establishing and maintaining a long-term, continuing relationship among tribal and state judicial systems.
- 3) To promote improvement in the quality of justice delivered in the context of the overlapping jurisdiction of state and tribal courts through judicial education, professional court administration, education of attorneys and the public about tribal courts, and the sharing of personnel, facilities, and programs, as well as shared state, tribal, and federal funding, as appropriate.
- 4) To promote respect for and recognition of the judicial proceedings and judgments among both tribal and state court systems in order to minimize litigation that might otherwise result.
- 5) To increase operational communication, cooperation, and coordination among state and tribal courts and other justice agencies in Kansas.

- 6) To promote legislative, regulatory, and court rule changes to further the coordination and cooperation between both state and tribal court systems.
- 7) Any other purposes deemed by a majority of forum members to be in the best interest of state and tribal courts and of the justice systems serving the citizens of Kansas and the tribal nations affected by the interaction of these court systems.

Section 2. Membership

The Kansas Tribal-State Judicial Forum consists of the following members:

- One tribal court judge from each participating federally recognized tribe that holds court proceedings within the State of Kansas.
- Not more than one judge of the state district court for every participating tribal court.

Section 3. Member Selection and Terms

Member Selection

State court judges shall be appointed by the Kansas Judicial Council. Tribal court judges shall be appointed by their respective tribe. The state court and tribal court judges may only serve while actively holding the judicial office which qualified the judge to be appointed to the forum. Upon a vacancy during a member's term, a successor shall be appointed in the same manner as the original appointment to serve for the remainder of the term.

Upon the expiration of the term of office of any member of the forum, a successor shall be appointed in the same manner as the original appointment.

Terms

State court and tribal court judges shall serve three-year terms. Each term begins July 1st. The initial terms for the forum's initial members shall be staggered as follows (numbers based on if the forum has 10 members):

- Two state court judges and two tribal court judges shall serve for a three-year term beginning July 1, 2016.
- Two state court judges and one tribal court judge shall serve for a two-year term beginning July 1, 2016.
- One state court judge and two tribal court judges shall serve for a one-year term beginning July 1, 2016.

The elected chair and vice-chair of the forum shall assign the staggered terms to the initial members at the forum's first meeting.

Equal Representation of State and Tribal Interests

To the extent possible, state and tribal interests shall be equally represented by the forum's membership. The forum shall evaluate whether state and tribal interests are equally represented as of July 1st of each year. If the forum memberships changes to create an inequality between state and tribal interests any adjustments to the number of members shall take effect immediately following July 1st. If a tribe chooses not to participate in the forum resulting in an unequal representation of state and tribal interests, the state judge who most recently joined the forum shall no longer be a voting member of the forum. The former member may continue to participate in the forum as an advisory member if the former member and the forum approves.

Section 4. Chair and Vice-Chair

The Kansas Tribal-State Judicial Forum shall be led by a chair and a vice-chair. The forum members shall elect one tribal court judge and one state court judge. The two elected members shall serve as the chair and vice-chair for a two-year term. The elected members shall alternate between being the chair and vice-chair each year. The state court judge shall be the chair in even numbered years and the tribal court judge shall be the chair in odd numbered years.

Section 5. Advisory Members

As agreed upon by a majority of the forum members, the forum may invite other individuals to participate in the forum in an advisory capacity. Examples of individuals include but are not limited to: law professors, court administrators, law enforcement representatives, social services representatives, prosecutors, practicing attorneys. The forum shall decide the length and scope of the advisory member's participation. Advisory members shall not have the right to vote.

Section 6. Meetings

Meetings shall be held at least two times per year at the call of the chair. Decisions shall be made by a majority of all voting members.

Section 7. Reports

The Kansas Tribal-State Judicial Forum shall report its findings and activities in a written report submitted at least annually to the Judicial Council and to the participating tribes. The written report may include recommendations for legislative, regulatory, or court rule changes.

Section 8. Amending Bylaws

The Kansas Tribal-State Judicial Forum Bylaws may be amended by agreement of a majority of its members and approval of the Judicial Council.

Michigan

Tribal-State-Federal Judicial Forum



Chief Judge Michael Petoskey and Michigan Supreme Court Justice Michael F. Cavanagh.

Founded: 2014 (similar project began in 1992)

Forum Description:

Within Michigan's borders, there are twelve federally recognized tribes. The original forum was convened in 1992. Although it only formally existed in name for one year, goals and objectives were developed, along with an implementation plan. Two of the objectives of the forum plan were the creation of the American Indian Law Standing Committee and American Indian Law Section of the State Bar of Michigan. The Standing Committee, as the first created entity, was responsible for pushing forward to achieve the goals and objectives of the forum's implementation plan. Although the forum only existed in name for a year, one of its lasting legacies is the relationships that have carried the forum's spirit forward ever since.

The 1992 forum was established by the Michigan Supreme Court, under the leadership of then-Chief Justice Michael

Cavanagh. Without his commitment to bringing each of the separate sovereigns together so each could better serve its respective constituents, none of this would have happened. Chief Judge Cavanagh led the Court's application for a grant from the National Center of State Courts because he realized that Michigan had a significant Native American population with a number of tribes. He also realized that he knew little about the tribes in Michigan and Indian affairs in general. Thus the primary charge of the forum was to identify the common ground to avoid jurisdictional conflict and develop strategies for court-to-court cooperation.

In 2014, the forum came together again formally and the order that created the forum states:

“For purposes of building on the past spirit of cooperation and of creating a dialogue among the state, Tribal, and federal judiciaries, the Court recognizes the importance of establishing an ongoing forum that will address working relationships among the court systems and the interaction of state, Tribal, and federal court jurisdiction in Michigan.”

The renewed forum has state court and tribal court co-chairs and meets twice a year. The forum convenes at each of the twelve tribal courts. State court judges have expressed a strong need and desire to learn more about the various Indian tribes in Michigan, including culture and the Native worldview as they are reflected in Native judicial philosophy and systems of justice.

Key Accomplishments

- ✓ Creation of the State Bar American Indian Law Standing Committee.
- ✓ Creation of the State Bar American Indian Law Section.
- ✓ Michigan Judicial Institute makes training available to tribal court judges.
- ✓ Michigan Court Rule 2.615, which provides for recognition of tribal court judgments.
- ✓ Annual Directory issue of *Michigan Bar Journal* contains information about tribal courts and tribal governments in Michigan.
- ✓ Addition of federal forum members.

Forum Membership:

The membership of the forum consists of the chief tribal judge of each of Michigan's twelve federally recognized tribes, or their designated alternate judges, with membership to be expanded to accommodate any new federally recognized tribes, and twelve state court judges (or the same number as there are tribal judges) are appointed by the Michigan Supreme Court from among a pool of currently serving or retired Michigan judges or justices. In making appointments, the court considers geographic proximity to the tribes, Indian Child Welfare Act (ICWA) and Michigan Indian Family Preservation Act (MIFPA) case load dockets, and current involvement with tribal court relations.

2019 Member Roster:

Hon. Kenneth Akini

Chief Judge

Grand Traverse Bay Band of

Ottawa and

Chippewa Indians

Tribal-State Court Forums—*Michigan*

Hon. Mark Esqueda

Chief Judge

Lac Vieux Desert Band of

Lake Superior

Chippewa Indians

Hon. Jocelyn Fabry

Chief Judge
Sault Ste. Marie Tribe of
Chippewa Indians

Hon. Matthew Fletcher

Appellate Judge
Pokagon Band of
Potawatomi Indians

Hon. William Jondreau

Chief Judge Keweenaw Bay
Indian Community

Hon. Allie Maldonado

Chief Judge
Little Traverse Bay Bands of
Odawa Indians

Hon. Anne McNamara

Chief Judge
Hannahville Indian
Community

Hon. Leah Parish

Chief Judge
Bay Mills Tribal Court

Hon. Michael Petoskey

Chief Judge
Match-E-Be-Nash-She-Wish
Band of Pottawatomi
(Gun Lake)

Hon. Melissa Pope

Chief Judge
Nottawaseppi Huron Band
of the Potawatomi

Hon. Patrick Shannon

Chief Judge
Saginaw Chippewa Indian
Tribe

Hon. Angela Sherigan

Judge
Little River Band of
Ottawa Indians

Hon. Terence J. Ackert

Judge
Probate Court
Kent County

Hon. Timothy P. Connors

Judge
22nd Circuit Court
Family Division

Anthony Crutchfield

Referee
3rd Circuit Court
Juvenile Division

Hon. Susan L. Dobrich

Chief Judge
Probate Court
43rd Circuit Court
Family Division
Cass County

Hon. Michael Gadola
Judge
Michigan Court of Appeals

Hon. Beth A. Gibson
Judge
92nd District Court

Hon. Elizabeth Gleicher
Judge
Michigan Court of Appeals

Hon. W. Clayton Graham
Judge
Mackinac/Luce Probate
District 6
Luce County

Hon. Cheryl L. Hill
Judge
Probate Court
25th Circuit Court
Family Division
Marquette County

Hon. James P. Lambros
Chief Judge
50th Circuit Court
Family Division
Chippewa County

Hon. Patricia T. Morris
Judge
U.S. District Court
Eastern District

Hon. Jeffrey C. Nellis
Chief Judge
Probate Court
51st Circuit Court
Family Division
Mason County

Hon. Valerie Snyder
Judge
7th Probate Court
33rd Circuit Court
Family Division (Juvenile)
Emmet County

Hon. Maaren Vermaat
Judge
U.S. District Court
Western District

Hon. Tracey A. Yokich
Judge
16th Circuit Court
Macomb County

Contact Information:

Justice Megan K. Cavanagh

P.O. Box 30052

Lansing, MI 48909

Phone Number: 517-373-8683

E-mail Address: cavanaghm@courts.mi.gov

Michigan Tribal State Federal Judicial Forum Naakonigewin (Charter)

Under the guidance of Michigan Supreme Court Justice Michael F. Cavanagh and Pokagon Band of Potawatomi Indians Chief Judge Michael D. Petoskey, Michigan enjoys a history of collaboration between state and tribal courts dating back prior to the first Tribal State Court Forum in 1992. Significantly, most of the recommendations from the 1992 forum were implemented. They included the creation of the “Enforcement of Tribal Judgments” court rule, MCR 2.615, and, most recently, the passage of the Michigan Indian Family Preservation Act of 2012 (MIFPA). The idea of re-convening an ongoing Michigan Tribal State Federal Judicial Forum has grown out of the MIFPA and the desire to create a venue for improving working relations and communication among the jurisdictions and to continue to produce better outcomes for Indian children and families.

Initially seats for all of the 12 currently federally recognized tribes in Michigan will be designated for the chief tribal judge or the designee. An equal number of seats for state court judges are designated. The Forum will strive to embody the Seven Grandfathers Teachings: Truth, Honesty, Humility, Wisdom, Love, Respect, and Bravery. To reflect this focus, the Little Traverse Bay Bands of Odawa Indians language specialist assisted the planning group with identifying an Odawa word— Naakonigewin— to reflect the meaning of “charter.”

Purpose:

The purpose of the Michigan Tribal State Federal Judicial Forum is to create an ongoing dialogue and respond to joint and cross jurisdictional issues among state, tribal, and federal judiciaries regarding working relationships and the interaction of state, tribal, and federal court jurisdiction in Michigan. The Forum shall make recommendations and implement philosophies, practices, and procedures to enhance our common responsibility to our children, our families and our communities of our sovereign nations.

Charge:

The charge of the 2014 Michigan Tribal State Federal Judicial Forum is:

- 1) *to foster mutual understanding, rapport, and acceptance by state, tribal and federal judges of the similarities and differences among each other's courts and legal systems;*
- 2) *to generate dialogue, achieve consensus on, and implement approaches to improving consistency of judicial practice in Indian Child Welfare Act (ICWA) and MIFPA cases throughout the state;*
- 3) *to identify opportunities for judicial collaboration across various subject matter areas among the jurisdictions;*
- 4) *to identify and work to eliminate barriers to the exchange of court information, records, and other data;*
- 5) *to make recommendations for systems improvement, including proposals for changes to legislation, court rules, and standard forms;*
- 6) *to promote improvement in the quality of justice delivered through judicial, court staff, and attorney education, professional court administration, and the sharing of personnel, facilities, and programs, in addition to funding, as appropriate;*
- 7) *to generate dialogue, achieve consensus on, and implement approaches to improving consistency of judicial practice in Title IV-D of the Social Security Act's child support cases; and*
- 8) *to perform any other duties deemed by a majority of Forum members to be in the best interests of state, tribal and federal courts and of the justice system serving the children and families, and communities of our sovereign nations.*

Membership:

- 1) **Tribal:** *The chief tribal judge of each of Michigan's federally recognized tribes will be invited to participate or to send an alternate tribal judge to serve. Tribal membership will be expanded to accommodate newly federally recognized tribes when this occurs.*
- 2) **State:** *An equal number of state court judges will be appointed by the Michigan Supreme Court Tribal Liaison Justice from a pool of currently serving or retired Michigan Judges or Justices, with consideration of geographic proximity to the tribes, ICWA and MIFPA case load dockets, and current involvement with tribal-court relations issues and projects. State court judicial membership will be expanded as tribal*

membership is expanded to accommodate any newly federally recognized tribes.

- 3) Federal:** *The Forum shall pursue participation and involvement from the federal bench and officials.*
- 4) Michigan Court of Appeals non-voting liaison(s).** *The Forum shall pursue participation from the Michigan Court of Appeals bench to serve as non-voting liaisons to the Forum.*

Term: *Members will serve three year terms. Memberships are renewable at the discretion of the Chief Tribal Judges or Tribal Liaison Justice, dependent upon the member.*

Organization: *The Forum shall be led by Co-Chairs consisting of one tribal court judge and one state court representative. The Co-Chairs will be selected by the entire body of members and will serve for a three year term.*

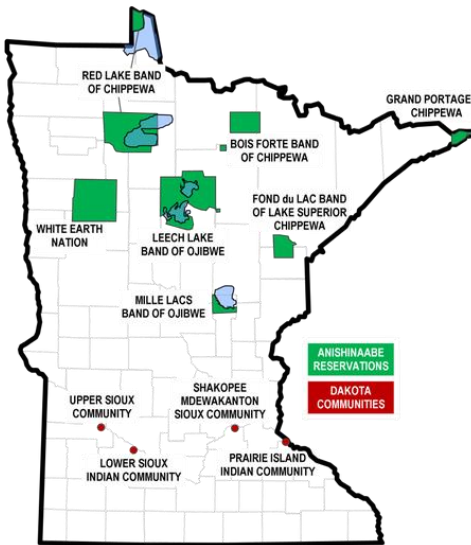
Work committees may be formed to carry out specific tasks as needs are identified by the members.

Decision Making: *Decisions by the Forum will be made by consensus.*

Meetings: *Meetings will be held at least three times per year. At least two of the meetings will be in-person meetings. The meeting location will be determined by the group, with the goal of rotating to different tribal and state court locations.*

Minnesota

Tribal Court-State Forum



Founded: Informally in 1996. State participants recognized by the Supreme Court in 2002. Included in the Minnesota Supreme Court’s Strategic Plan 2013.

Forum Description:

Minnesota has eleven federally recognized Indian tribes, comprised of the Red Lake Nation; the following Minnesota Chippewa tribe bands: Bois Forte Band of Chippewa (Nett Lake), Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Lake Superior Chippewa, Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, and the White Earth Nation; and four Dakota tribes: Lower Sioux Indian Community, Prairie Island Indian Community, Shakopee Mdewakanton Sioux Community, and the Upper Sioux Community.

Minnesota’s Tribal Court-State Court Forum began informally in 1996 when sitting Minnesota Supreme Court Justice, Sandra

Gardebring, met with two tribal judges who were exploring solutions arising from difficulties with the enforcement of Orders for Protection outside reservation boundaries. The informal meetings soon included other judges from tribal systems and the state system and after more than a decade, the Supreme Court included the forum's efforts in its Strategic Plan.

The first official meeting occurred on the Fond du Lac Reservation and included approximately thirty-five state judges (who had been notified by Justice Gardebring) and tribal court judges from each of the eleven jurisdictions. Forum meetings are held four times a year with the meetings locations alternating from tribal to state land, with participating tribes rotating the hosting duties.

The forum examines shared issues of importance and individual members have appeared before the state legislature and the state bar to present those issues. All members can propose interest or topic areas that should be discussed at meetings. A sampling of the kind of issues presented for forum discussions include The Violence Against Women Act of 1994 (VAWA), its safe harbor provisions, acknowledgment and recognition rules, and current cases pending in tribal, state, and federal judicial fora.

The forum has worked on enforcement of protection orders and has presented to the Minnesota Supreme Court rules for recognition and enforcement of tribal court orders which was adopted in 2004. Currently before the forum for consideration is a proposed revision to the 2004 recognition and enforcement rule. The forum regularly invites presentations from the Supreme Court Administrator's Office, the Department of Human Services, and the Coalition for Battered Women, among others.

Website: <http://mncourts.gov/Help-Topics/TCSCF.aspx>

Key Accomplishments

- ✓ Developed state comity rule, adopted in 2004.
- ✓ Advocated for the full implementation of the Michigan Indian Family Preservation Act (MIFPA).
- ✓ Providing ongoing judicial education regarding tribal courts.
- ✓ Implemented [Tribal Court State Court Forum website](#) in August 2017.
- ✓ Cosponsored “Why Treaties Matter,” a nationally recognized traveling exhibit developed by the Minnesota Indian Affairs Council, the Minnesota Humanities Center, and the Smithsonian Institution’s National Museum of the American Indian.
- ✓ Celebrated 10th Anniversary of the Cass County/Leech Lake Joint Jurisdiction Wellness Court.
- ✓ Provided ongoing education regarding tribal courts, state courts, Indian Child Welfare Act (ICWA), and MIFPA.

Forum Membership:

The forum is comprised of a State Court Committee and a Tribal Court Committee. The state court members of the forum are chosen by the Supreme Court’s designated co-chair of the forum, Court of Appeals Judge Larry Stauber. Participation by each of the eleven tribal jurisdictions is independently made by each tribe.

2019 Member Roster:

Hon. Mary Al Balber
Appellate Judge
Grand Portage Band of Lake
Superior Chippewa

Hon. Amber Ahola
Associate Judge
Leech Lake Band of Ojibwe
Tribal Court

Hon. Chris Allery

Associate Judge
Red Lake Nation Tribal
Court

Hon. Chris Anderson

Appellate Judge
Grand Portage Band of Lake
Superior Chippewa
Court of Appeals
Minnesota Chippewa Tribe

Hon. Ramona Applegate

Interim Chief Justice
Court of Appeals
Mille Lacs Band of Ojibwe

Hon. Lenor Scheffler

Blaeser
Chief Judge
Upper Sioux Community

Hon. Clarence Boyd

Judge
District Court
Mille Lacs Band of Ojibwe

Hon. Henry Buffalo Jr.

Associate Judge
Shakopee Mdewakanton
Sioux Community

Hon. David Christensen

Judge
District Court
Mille Lacs Band of Ojibwe

Hon. Rayna Churchill

Chief Justice
Court of Appeals
Mille Lacs Band of Ojibwe

Hon. Paul Day

Chief Judge
Leech Lake Band of Ojibwe
Tribal Court

Hon. Sarah Deer

Appellate Judge
Prairie Island Indian
Community

Hon. David DeGroat

Judge
White Earth Nation Tribal
Court

Hon. Christina Deschampe

Judge
Grand Portage Band of Lake
Superior Chippewa and
Minnesota Chippewa Tribe
Court of Appeals

Hon. Leonard Fineday

Judge
Red Lake Nation Tribal
Court

Hon. Vanya Hogen

Associate Judge
Shakopee Mdewakanton
Sioux Community

Hon. Joanne House
Appellate Judge
Prairie Island Indian
Community Tribal Court

Hon. John Jacobson
Chief Judge
Shakopee Mdewakanton
Sioux Community

Hon. Tadd Johnson
Appellate Judge
Court of Appeals
Minnesota Chippewa Tribe

Hon. B. J. Jones
Chief Judge
Prairie Island
Indian Community Tribal
Court

Hon. Terry Mason Moore
Justice
Prairie Island Indian
Community Court of
Appeals

Hon. Diane Nickaboine
Appellate Judge
Court of Appeals
Minnesota Chippewa Tribe

Joe Plumer
General Counsel
White Earth Nation

Hon. Frank Pommersheim
Judge
Grand Portage Band of Lake
Superior Chippewa

Hon. Mary Ringhand
Chief Judge
Red Lake Nation Tribal
Court

Hon. Mike Rousu
Associate Judge
White Earth Nation

Hon. Elizabeth Royal
Judge
Red Lake Nation Tribal
Court

Hon. Jessica Ryan
Chief Judge
Lower Sioux Indian
Community

Hon. George Soule
Appellate Judge
Prairie Island Indian
Community
White Earth Nation

Hon. Tammy Swanson
Special Magistrate
Mille Lacs Band of Ojibwe

**Suzanne Ojibway
Townsend**
Chief Judge
Fond du Lac Band of Lake
Superior Chippewa Court of
Appeals

Hon. Margaret Treuer
Judge
Bois Forte Band of
Chippewa and Minnesota
Chippewa Tribe Court
of Appeals

Hon. Megan Treuer
Deputy Judge
Leech Lake Band of Ojibwe
Tribal Court
Bois Forte Band of
Chippewa

Hon. Amanda White Eagle
Associate Judge
Prairie Island
Indian Community Tribal
Court

State Court Forum
Members

Hon. Reynaldo Aligada
Judge
District Court of Minnesota
Second Judicial District
Ramsey County

Hon. David Piper
Judge
District Court of Minnesota
Fourth Judicial District
Hennepin County

Hon. Douglas Bayley
Judge
District Court of Minnesota
First Judicial District
Goodhue County

Hon. Gail Kulick
Judge
District Court of Minnesota
Seventh Judicial District
Mille Lacs County

Hon. Karen Duncan
Judge
District Court of Minnesota
Third Judicial District
Steele County

Hon. Dwayne Knutsen
Chief Judge
District Court of Minnesota
Eight Judicial District
Yellow Medicine County

Hon. Stoney Hiljus
Chief Judge
District Court of Minnesota
Tenth Judicial District
Kanabec County

Hon. Lucinda Jesson
Judge
Minnesota Court of Appeals
State of Minnesota

Hon. David Lillehaug
Justice and Liaison
Minnesota Supreme Court
State of Minnesota

Hon. Anne McKeig
Associate Justice
Minnesota Supreme Court
State of Minnesota

Hon. Patrick Rohland
Judge
District Court of Minnesota
Fifth Judicial District
Redwood County

Hon. Sally Tarnowski
Judge
District Court of Minnesota
Sixth Judicial District
St. Louis County

Hon. Korey Wahwassuck
Judge
District Court of Minnesota
Ninth Judicial District
Itasca County

Hon. Renee Worke
Judge
Minnesota Court of Appeals
State of Minnesota

Funding Source:

Judges participate on a voluntary basis. Meeting facilities provided by the state and tribes.

Contact Information:

Rebecca Vanden Hanen
Staff Attorney
State Court Administrator's Office
Phone Number: 651-282-3968
E-mail Address: Rebecca.Vandenhane@courts.state.mn.us

Minnesota Authorizing Documents

From: “Priorities and Strategies for Minnesota’s Judicial Branch: Focus on the Future” FY 2014–15



Strategic Goal 3: PUBLIC TRUST, ACCOUNTABILITY, AND IMPARTIALITY

Priority 3C: Promote communication and collaboration between the Minnesota Judicial Branch and Minnesota Tribal Courts.

ISSUE

State courts and tribal courts have a range of common responsibilities. Both have the responsibility to provide justice to the citizens of this state. Both seek to use public resources effectively and efficiently. The parallel and sometimes overlapping responsibilities require open lines of communication between the two court systems. Person-to-person communication and sharing information among tribal and state judges and court staff can lead to improved respect, understanding, and cooperation between the two court systems.

This Strategic Goal seeks to facilitate more effective State-Tribal Court cooperation and communication. The State-Tribal Court Forum will be responsible for assessing current levels of interaction and cooperation, for facilitating improvement and for consulting on appropriate educational opportunities and materials for judges, court employees, and justice partners.

OBJECTIVE

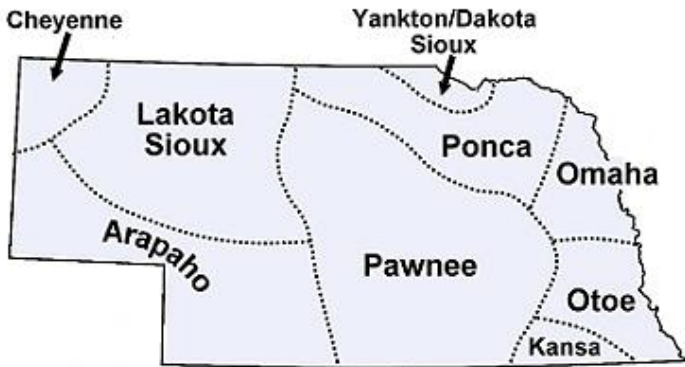
- Raise understanding and awareness of State Court judges and personnel on State-Tribal issues.
- Develop training programs aimed at facilitating justice system understanding of Indian Law.
- Increase cooperation/and collaboration with Tribal Courts on matters of common interest.

STRATEGIES

- Continue efforts to foster relationships between state courts and tribal courts through education, training, meetings and ride-alongs.

Nebraska

Consortium on Tribal, State, and Federal Courts



Founded: The Nebraska Supreme Court approved creation of a Consortium on Tribal, State, and Federal Courts during consultation on August 20, 2018.

Consortium Description:

The consortium grew out of a roundtable meeting in August 2019 that the Nebraska Supreme Court Chief Justice, Mike Heavican, hosted of the Nebraska-based tribes, the state, and the federal government in South Sioux City. The roundtable meeting identified several areas of mutual concern:

- Enforcement of court orders;
- Uniformity in jurisdictional determinations;
- Uniform procedures for coordination of joint jurisdiction;
- Joint education programming for courts (juvenile justice and child welfare specifically); and
- Data collection and sharing data.

The work of the consortium builds on the work of the Nebraska Indian Child Welfare Coalition and the Nebraska Commission on Indian Affairs and is informed by the public engagement sessions held to date.

The consortium is housed under the Nebraska Access to Justice Commission, chaired by a tribal judge and a state judge.

Key Accomplishments
✓ Listening sessions in Omaha, Macy, Winnebago, and Niobrara.

Consortium Membership:

Initial membership of the consortium was intended to provide representation from all the sovereign court systems within Nebraska, while keeping the size of the group to a level that would allow efficient progress as the consortium begins its work.

2019 Member Roster:

Co-Chair:

Hon. Andrea Miller
District Court Judge
12th Judicial District
Nebraska

Co-Chair:

Hon. Patrick Runge
Chief Judge
Winnebago and Ponca
Tribes

Members:

Hon. Susan Bazis
U.S. Magistrate Judge
U.S. District Court
District of Nebraska

Elizabeth Neeley
Co-chair
Access to Justice
Commission
Nebraska State Bar
Association

Misty Frazier

Executive Director
Nebraska Indian Child
Welfare Coalition

Judi M. Gaiashkibos

Executive Director
Nebraska Commission on
Indian Affairs

Hon. John Gerrard

Federal Court Chief Judge
U.S. District Court
District of Nebraska

Hon. Thayne Glenn

Judge
Santee Sioux Nation
Tribal Court

Hon. Doug Johnson

(Retired)
Separate Juvenile Court
Douglas County

Staff:

Mary Ann Harvey

Nebraska Court Improvement Project

Justice Stephanie Stacy

Co-chair
Access to Justice
Commission
Justice of the Nebraska
Supreme Court

Corey Steel

State Court Administrator

Hon. Ken Vampola

Judge
6th Judicial District
County Court
Nebraska

Hon. Ed Zendejas

Chief Judge
Omaha Tribal Court

Note: Membership is determined by the consortium and its co-chairs.

Funding Source:

The Consortium received a grant from the National Center for State Courts to host public engagement sessions. Staff support is provided by the Nebraska Court Improvement Project and the Access to Justice Commission.

Website: <https://supremecourt.nebraska.gov/consortium-tribal-state-federal-courts>

Contact Information:

Mary Ann Harvey

Project Specialist

Nebraska Court Improvement Project

Phone Number: 402-580-7783

E-mail Address: maryann.harvey@nebraska.gov

New Mexico

Tribal-State Judicial Consortium



Founded: 2006

Website: <https://tribalstate.nmcourts.gov/>

Forum Description:

Within New Mexico, there are currently twenty-three tribes/pueblos; eighteen of which are federally recognized. The consortium has been very successful in its facilitation efforts between tribal and state courts and was recognized by the National Criminal Justice Association (NCJA) in August 2013 with the Outstanding Criminal Justice Program Award. The consortium had initially been a subcommittee of the New Mexico Court Improvement Project. In 1998, the consortium was informally recognized by the New Mexico Supreme Court as the New Mexico Tribal-State Judicial Consortium, as a result of the growing interest of New Mexico Supreme Court Justice Patricio Serna, and others, to form a more organized group to begin discussing cross-jurisdictional issues.

In 2006, the consortium was formally recognized as a Supreme Court advisory body:

Tribal-State Court Forums—*New Mexico*

“To encourage and facilitate communication and collaboration between State and Tribal Court judges on common issues, focusing on domestic violence, domestic relations, child custody, child support, child abuse and neglect, and juvenile justice, and addressing questions of jurisdiction and sovereignty as they relate to each particular issue.”

The consortium conducts in-person quarterly meetings, often at a state or tribal court location. Its committees meet by conference call monthly or bimonthly and meet more frequently as needed. The consortium is co-chaired by a state and tribal representative; the co-chairs have equal status and are appointed by the Supreme Court. These roles are quite flexible and the co-chairs are the driving force behind the consortium’s direction.

For example, the consortium has provided travel scholarships for six to sixteen tribal judges to participate in training events, and developed tribal-related workshops for these events to help educate a broader court audience.

The 2006 Supreme Court order set general requirements that the consortium shall:

1. Provide opportunities for state and tribal court judges to create rapport;
2. Educate state and tribal judges and tribal leadership; and
3. Continue to review the state system of services for Native children and families residing on and off the reservation.

These broad goals have allowed work to proceed on a wide variety of topics: full faith and credit, revamping the tribal-state website, tribal court orders for mental health services, and Sex Offender Registration and Notification Act (SORNA) implementation by the tribes. The consortium has facilitated the adoption of a uniform first page on domestic violence protection orders adopted by New Mexico Supreme Court and at least seven tribal courts. The consortium is particularly dedicated to child welfare and the Indian Child Welfare Act (ICWA) issues, creating bench cards on ICWA and distributing them to all state and tribal courts, child welfare agencies, and attorneys handling these cases. The consortium has supported the rights of incarcerated parents of Indian children, criminal courts, law enforcement, probation, state and tribal social workers, child welfare agency, and attorneys.

Key Accomplishments

- ✓ Formally recognized as a Supreme Court advisory body in 2006.
- ✓ Project Passport: A uniform first page for all state orders of protection and several tribal courts.
- ✓ Pilot Testing Juvenile Detention Alternative Initiatives.
- ✓ Received Outstanding Criminal Justice Program Award from the National Criminal Justice Associate in 2013.
- ✓ Uniform first page for domestic violence protection orders.
- ✓ ICWA bench cards.
- ✓ Travel scholarships for six to sixteen tribal judges to participate in training events.
- ✓ In April 2015, the consortium met for a full day to discuss the organizational history, current environment, and identify its goals for the next five years.
- ✓ Reviewing the state's implementation of ICWA.
- ✓ Comprehensive website with forum committee updates and resources including contact information for tribal courts.

- ✓ Creation of Drug Court Committee.
- ✓ Creation of Service Committee working on the following:
 - Model orders for tribal access to other needed state services;
 - The development of a lay counsel or a lay advocate program for better representation in tribal courts;
 - Drafting a model ordinance/law that can be used by tribes in implementing the federal VAWA law;
 - The identification of an index and/or online directory of state services; and
 - Improved tribal notification by the state of tribal youth in state custody.

Forum Membership:

The consortium consists of fourteen members, half of whom represent tribal courts and the other half represents state courts at all levels. In addition, three alternate positions may fill in for regular members (voting authority) when one is absent. Two alternates represent tribal courts, and one represents state courts.

The tribal court representatives are designated by the tribal judges, with two members coming from the Southern Pueblos, two from the Northern Pueblos, one each from the Jicarilla Apache Tribe and the Navajo Nation, and one general position. The state court representatives are appointed by the New Mexico Supreme Court. There are also two liaison positions, one for a Supreme Court member, and one for a Federal Court or attorney, who are appointed by the Supreme Court. All members hold three-year terms and may be reappointed for additional terms. See the following for the Order from the Supreme Court regarding these appointments and the official Tribal-State Judicial Consortium roster:

2019 Member Roster:

State Co-Chair:

Hon. M. Monica Zamora

Judge

New Mexico Court of
Appeals

Members:

Hon. Randolph M. Collins

Judge

Acoma Tribal Court

Hon. T. David Eisenberg

Judge

Taos Pueblo Tribal Court

Hon. John F. Davis

Judge

Thirteenth Judicial
District Court
New Mexico

Hon. Bruce C. Fox

Judge

Laguna Tribal Court

Tribal Co-Chair:

Hon. William Johnson

Judge

Pueblo of Acoma
Court of Jicarilla Apache
Nation

Hon. William E. Parnall

Judge

Second Judicial
District Court
New Mexic

Hon. Leonard Livingston

Judge

Navajo Nation
Judicial Branch

Hon. Pedro G. Rael

Judge

Thirteenth Judicial
District Court
New Mexico

Hon. Marita Robinson

Judge
Jicarilla Apache Tribal Court

Hon. Geoffrey Tager

Judge
Ohkay Owingeh Tribal Court

Hon. Allan Toledo

Judge
Jemez Pueblo

Hon. Renee Torres

Judge
Bernalillo County
Metropolitan Court

Hon. Briana Zamora

Judge
Second Judicial
District Court
New Mexico

Nonvoting Members or Staff

Kyle Nayback

Assistant U.S. Attorney
Office of the U.S. Attorney
District of New Mexico

Valerie Merryfield

Court Clerk Leadworker
Administrative Office of
the Courts
Magistrate Court
Chaves County

Funding Source:

The New Mexico legislature annually appropriates state general funds for the consortium’s activities, with a budget of \$11,800 in the current year. In addition, the order that created a formal committee allows the tribal judges to be reimbursed by the consortium’s budget for their mileage to attend the consortium’s quarterly meetings, a move that has enhanced tribal participation at these events.

Contact Information:

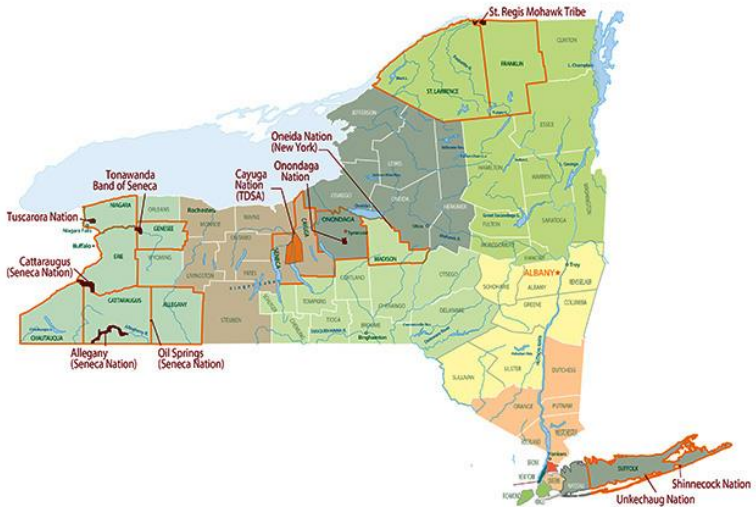
Peter Bochert

Senior Statewide Program Manager and
Acting Director of the Court Services Division
NM Administrative Office of the Courts
237 Don Gaspar, Room 25
Santa Fe, NM
Phone Number: 505-827-4800

Website: <https://tribalstate.nmcourts.gov/>

New York

Tribal-State-Federal Court Forum



Founded: 2003

Website: www.nyfedstatetribalcourtsforum.org/history.shtml

Forum Description:

In 2002, former Chief Judge Judith S. Kaye of the New York Court of Appeals created the New York Tribal Courts Committee to study the possibility for a federal-state-tribal courts forum in New York. Judge Kaye appointed Justice Marcy L. Kahn and the late Justice Edward M. Davidowitz of New York State Supreme Court as its co-chairs. Judges Kahn and Davidowitz held meetings with members of the New York state and federally recognized nations and tribes and the forum was created in 2003 to:

- 1) Develop educational programs for judges, tribal chiefs, and Indian communities;

- 2) Exchange information among and between tribes and nations and agencies;
- 3) Coordinate the integration of Indian Child Welfare Act (ICWA) training for childcare professionals, attorneys, judges, and law guardians;
- 4) Develop a mechanism for promoting resolution of jurisdictional conflicts;
- 5) Foster better cooperation and understanding between and among justice systems; and
- 6) Enhance ICWA enforcement.

The forum meets twice a year—in October and April. Meetings take place at the U.S. Courthouse in Syracuse. The U.S. District Court for the Northern District of New York also supplies a court reporter. Downstate participants are able to attend by videoconference from the U.S. District Court for the Eastern District of New York in Central Islip.

The topics and issues discussed at the forum meetings revolve largely around the six areas identified in its mission statement (set forth in the preceding text). The only topics that are off-limits are pending cases, land disputes, and issues regarding taxation and gaming.

Key Accomplishments

- ✓ Conducted A Second Listening Conference (2016).
- ✓ Native Bail Reform Initiative and pilot program in Franklin County.
- ✓ First Annual ICWA Conference (April 3, 2019)
Continuing Legal Education (CLE) credit.
- ✓ Establishment of subcommittees including, among others: Strategic Planning Committee, The Native American Graves Protection and Repatriation Act (NAGPRA) Legislation Committee, Native Bail Reform Initiative Committee, Website Committee, and the Teach ICWA Committee.
- ✓ Updated website.
- ✓ Adoption of legislation recognizing tribal marriages.
- ✓ A court comity rule for recognition of tribal court judgments.
- ✓ A special edition of the *New York State Bar Journal* on ICWA, with articles authored by forum members.
- ✓ A Teach ICWA initiative to continue ICWA training for attorneys (through Continuing Legal Education), childcare professionals, and judges.
- ✓ A First Listening Conference for state, federal, and tribal court judges and justice system personnel.
- ✓ Ten-year Recap Meeting.
- ✓ Indian child welfare and child support enforcement.
- ✓ Comprehensive website with resources on tribal courts and ICWA contact database.

Forum Membership:

Participants in the New York forum include members from all nine state-recognized nations and tribes (which includes all eight federally recognized nations and tribes); state court judges and court-designated members of the New York Tribal Courts Committee; representatives of the Second Circuit from New Tribal-State Court Forums—*New York*

York, including at least one federal judge, and Assistant U.S. Attorneys from the Eastern and Northern Districts of New York; and representatives from state agencies including the Office of Children and Family Services. Although a formal membership structure for the forum was originally suggested, the participants are more comfortable with a more fluid, flexible structure. The meetings are led by a Native cofacilitator and a state cofacilitator.

Funding Source:

The New York Office of Court Administration provides a very small budget to the New York Tribal Courts Committee, which covers a light lunch at forum meetings and travel for three state judges from downstate to attend the meetings.

Highlighting Innovation: Native Bail Reform Pilot Program

The Native Bail Reform Initiative Pilot Program was fully funded by the U.S. Department of Justice Coordinated Tribal Assistance Solicitation Grant in 2017. Funded by the three-year grant, its purpose is to allow the Saint Regis Mohawk Tribe to provide pretrial supervision for a town court. The New York Court of Appeals struck down cash-only bail due to its disparate impact on the indigent. Residents of Native American territories in New York are faced with an unequal opportunity to secure pretrial release from incarceration as procuring a commercial bail/bond (using land owned on the reservation as collateral) is not possible. Federal and tribal laws make lands in Indian territory inalienable. Thus, a native accused of a crime is frequently left with only the cash bond option. The Saint Regis Mohawk Tribal Court in conjunction with the Town of Bombay Court are participating in this first-ever tribal-state court collaboration on a bail reform initiative.

New York Authorizing Document

Currently, the New York Tribal Courts Committee, which is a standing committee of New York's Chief Judge, provides administrative support to the forum. The outgoing Chair of the Tribal Courts Committee is Hon. Marcy Kahn. The incoming chairs are Hon. Mark Montour and Hon. Robert G. Main Jr.

The State Court judges are currently working on institutionalizing the forum with the adoption of a court rule or administrative order.

Contact Information:

Valorie Perez

New York Unified Court System

111 Dr. Martin Luther King Jr. Blvd.

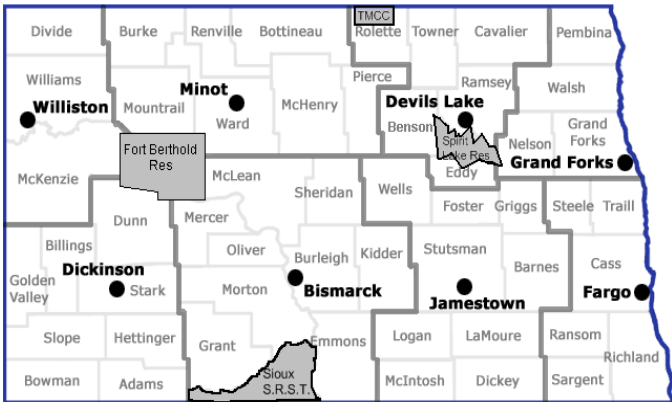
White Plains, NY 10601

Phone Number: 914-824-5811

E-Mail Address: vperez@nycourts.gov

North Dakota

Tribal and State Court Affairs Committee



Founded: 1994

Website: www.ndcourts.gov/supreme-court/committees/tribal-and-state-court-affairs-committee

Forum Description:

Currently there are five federally recognized tribes and one Indian community located at least partially within the state of North Dakota. These include the Mandan, Hidatsa, and Arikara Nation (Three Affiliated Tribes); the Spirit Lake Nation; the Standing Rock Sioux Tribe; the Turtle Mountain Band of Chippewa Indians; the Sisseton Wahpeton Oyate Nation; and the Trenton Indian Service Area. Almost 60 percent of the Native population lives on a reservation and more than 40 percent are under the age of twenty. What is now the Tribal State Court Forum started when chief justices from the state courts passed a resolution to study civil jurisdiction in Indian country in 1985.

The National Center for State Courts received funding through the State Justice Institute to do the study that took place over Tribal-State Court Forums—*North Dakota*

several years. Now the forum is funded through the state court and has had a positive impact on state policies.

The forum meets three or four times a year, and one of its biggest projects is still related to the work in 1985, civil jurisdiction. Since 1985, the forum has been very successful as evidenced by the amended North Dakota civil procedure rules, which mandates recognition of tribal court orders and judgments. Within the large category of civil procedure, the forum is particularly invested in addressing successful protocol for child support collection. Currently, the forum is working on issues related to domestic violence orders. The forum is also addressing criminal jurisdiction issues. Currently, state warrants are honored by some tribal courts, but not others, which can cause problems for tribal and state communities. The forum's latest projects are logical extensions of their hard work of creating an extradition statute for tribal warrants.

Key Accomplishments
<ul style="list-style-type: none">✓ Developing draft agreements on sharing of information between state and tribal juvenile courts.✓ Amended civil procedure rules that mandate recognition of tribal court orders and judgments.✓ Developing a protocol for child support collection.

Forum Membership:

The Committee on Tribal and State Court Affairs is composed of eighteen members, including:

- State court judges (4)
- Chief Tribal Judge or designee (5)
- Tribal Court Administrative Support Services Representative (2)

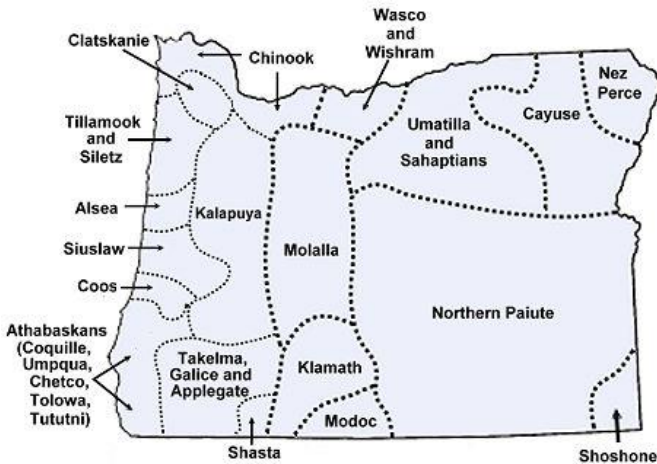
- State Court Administrative Support Services Representative (2)
- Public Members (3)
- U.S. District Court for North Dakota (1)
- Northern Plains Tribal Judicial Training Institute (1)

2019 Member Roster:

- Hon. Jerod Tufte (Chair)
- Hon. Anthony Swain Benson
- Mandy Davis
- Scott Davis
- Amanda Engen
- Verna Gone
- Kevin Hagen
- Scott Hopwood
- Traci Hysjulien
- Hon. B. J. Jones
- Hon. Madonna Marcellais
- Rodney Olson
- Michelle Rivard Parks
- Hon. Mary Seaworth
- Hon. Michael Swallow
- Sharon T. Thompson
- Hon. Joseph Vetsch

Oregon

Tribal Court/State Court Judicial Forum



Founded: 2015

Forum Description: There are nine federally recognized tribes within Oregon. The Tribal Court/State Court Forum was launched in 2015 and formalized by a memorandum of understanding between the nine federally recognized tribes in Oregon and the Oregon Judicial Department. The purpose of the forum is to create and institutionalize a collaborative relationship between judicial systems in Oregon, identify cross-jurisdictional legal issues affecting the people served by those systems, and improve the administration of justice for all our peoples. The forum has identified short-, medium-, and long-term issues affecting families, health, and safety and is systematically working to address each of these issues.

The forum meets annually, with responsibility for hosting the meeting alternating between the tribes and the state.

Key Accomplishments

- ✓ Rule change to Uniform Trial Court Rule 3.170, creating an exemption allowing an out-of-state attorney representing a tribe or Indian parent in an ICWA proceeding to appear in an Oregon court without paying a court fee or associating with an Oregon attorney.
- ✓ Training and education on full faith and credit for tribal protection orders.
- ✓ Cross-cultural court and tribe visits.

Members: The forum is composed of eighteen judges—one from each of the nine federally recognized tribes in Oregon and nine from Oregon’s circuit courts. Each tribe designates a tribal judge to serve on the forum, while the nine state court judges are appointed by the Chief Justice of the Oregon Supreme Court.

2019 Member Roster:

Co-Chair:

Hon. Martha Walters
Chief Justice
Oregon Supreme Court

Hon. William Cramer
Grant/Harney County
Circuit Court

Hon. Daniel Ahern
Judge
22nd District Circuit Court
Jefferson County

Hon. Cal Gantenbein
Judge
Confederated Tribes of
Siletz Indians

Hon. Donald Costello
Judge
Coquille Indian Tribe

Hon. Patricia Davis Gibson
Chief Judge
Klamath Tribal Courts

Hon. Lynn Hampton

Judge
6th District Circuit Court
Umatilla County

Hon. Norm Hill

Judge
12th District Circuit Court
Polk County

Hon. William Johnson

Chief Judge
Confederated Tribes of
Umatilla Indian Reservation

Hon. Mark Kemp

Chief Judge
Burns Paiute Tribe

Hon. Lisa Lomas

Chief Judge
Confederated Tribes of
Warm Springs (Co-chair)

Hon. Valeri Love

Judge
2th District Circuit Court
Lane County

Hon. Maureen McKnight

Judge
4th District Circuit Court
Multnomah County

Hon. Darleen Ortega

Judge
Oregon Court of Appeals

Hon. David Shaw

Chief Judge
Confederated Tribes of
Grand Ronde

Hon. Martin Stone

Judge
15th District Circuit Court
Coos and Curry County

Hon. J. D. Williams

Chief Judge
Confederated Tribes of
Coos, Lower Umpqua, and
Siuslaw

Hon. Ron Yockim

Judge
Cow Creek Band of Umpqua
Tribe of Indians

Funding Source:

The Oregon Judicial Department's Office of the State Court Administrator provides staff support and funding for annual meetings. Meeting facilities have been provided by both the state and the tribes.

Contact Information:

Valerie Colas—Access to Justice Staff Counsel
Office of the State Court Administrator, Oregon Judicial
Department
Phone Number: 503-986-5500
E-mail Address: Valerie.Colas@ojd.state.or.us

Oregon Authorizing Documents

Memorandum of understanding between the Oregon Judicial Department and the nine federally recognized tribes of Oregon.

TRIBAL COURT/STATE COURT FORUM

Memorandum of Understanding

Between

The Oregon Judicial Department

and

The Nine Federally Recognized Tribes of Oregon

This Memorandum of Understanding (MOU) sets forth the terms and understanding between the Oregon Judicial Department and the Nine Federally Recognized Tribes of Oregon to establish an ongoing forum of state, tribal and federal judiciaries.

Background

Oregon has nine federally recognized Indian tribes: the Burns Paiute Tribe; the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians; the Confederated Tribes of Grand Ronde; the Confederated Tribes of Siletz Indians; the Confederated Tribes of the Umatilla Indian Reservation; the Confederated Tribes of Warm Springs; the Coquille Indian Tribe; the Cow Creek Band of Umpqua Tribe of Indians; and The Klamath Tribes. Oregon also has 36 Circuit Courts and six Federal Courts including one US District Court in four locations, one Bankruptcy Court and one Ninth Circuit Court of Appeals. State, Federal and tribal courts have a range of common responsibilities. However, at times, they can misunderstand, misinterpret and disagree about issues important to each jurisdiction. These parallel and sometimes overlapping responsibilities require open communication between court systems. In August of 2015, six Tribal judges, twelve Circuit Court Judges and one Federal Judge convened to discuss cross-jurisdictional issues affecting all of their systems. At the conclusion of their meeting, they unanimously expressed a need for an ongoing forum to continue the work.

Purpose

The Tribal Court/State Court Forum will create and institutionalize a collaborative relationship between judicial systems in Oregon, identify cross-jurisdictional legal issues affecting the people served by those systems, and improve the administration of justice of all our peoples. It will allow judges and court representatives to gain knowledge of their various court procedures and practices, identify strategies and facilitate improvements in their interactions, and allow them to coordinate and share resources, educational opportunities and materials.

Membership

The membership of the forum shall consist of equal representation of nine state court representatives from diverse locations and nine tribal representatives. One state court judge and one tribal court judge shall serve as co-chairs of the forum. The co-chairs can designate an attorney representative with knowledge of Indian Law and a federal court representative to serve as members of the forum.

Meetings

The forum will meet up to two times each year and will alternate between tribal and state locations.

Funding

This MOU is not a commitment of funds.

Duration

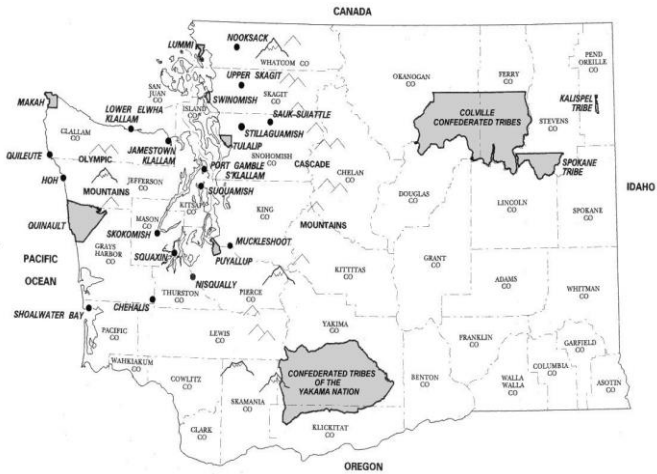
This MOU is at-will and may be modified by mutual consent of the members. This MOU shall become effective upon signature by the authorized officials listed below and will remain in effect until modified or terminated by any one of the partners by mutual consent.

Tribal Court/State Court Forum MOU

Non-Binding

The parties understand that this MOU is not legally binding on them but is designed to reflect an understanding of the way in which they can effectively cooperate to create a tribal/state court forum in Oregon. Nothing in the MOU restricts any party from exercising independent judgment or discretion given it under applicable statutes, regulations, or other sources.

Washington Tribal State Court Consortium



Founded: 2013

Forum Description:

The Tribal State Court Consortium (TSCC) is a joint effort between state and tribal court judicial officers and other judicial branch members to expand communication and collaboration. The TSCC provides an open, transparent forum in which state and tribal court judicial officers can build relationships and discuss jurisdictional issues, gaps in services, and ways to develop lasting respectful partnerships. The TSCC is focusing its efforts on domestic violence and sexual assault issues, dependency cases involving Indian children, and the disproportionate number of Indian youth in the juvenile justice system.

Washington State is home to twenty-nine different federally recognized tribes, each with their own robust culture, tradition, and history. The TSCC holds an annual meeting each fall, in conjunction with the statewide Annual Judicial Conference, and a Spring Regional Meeting, hosted at a tribe. The 2019 Annual Tribal-State Court Forums—*Washington*

Meeting had thirty-five participants including fifteen tribal court judicial officers and twelve state court judicial officers, and was focused on Missing and Murdered Indigenous Women (MMIW) and Indian Child Welfare Act (ICWA).

Current TSCC initiatives focus on:

- ICWA;
- Full faith and credit;
- Domestic violence and sexual assault; and
- Cooperation and communications between courts.

History:

In 1988, the Coordinating Council of the Association of State Supreme Court Chief Justices initiated a project to identify and resolve jurisdictional conflicts between tribal and state courts.

In 1990, the Civil Jurisdiction in Indian Country Project created demonstration forums in three states, one being Washington. The Washington Forum, co-chaired by Chief Justice Anita Dupris and former Chief Justice Vernon R. Pearson (deceased/walked on), developed a handbook to disseminate information about tribal courts in Washington to improve understanding of those courts and reduce jurisdictional conflicts and recommended the adoption of a full faith and credit rule. The recommendation became Superior Court Civil Rule 82.5 in 1995, giving full faith and credit to tribal court orders. Once adopted, and after presenting at a national conference, the group disbanded. The group began meeting informally again during 2011–2012 and was revived, as the Tribal State Court Consortium, in 2013 with a general direction to improve collaboration between courts and with specific grant funding for domestic violence and sexual assault work.

Key Accomplishments

- ✓ Provided travel scholarship funding for tribal court judicial officers and court personnel to attend trainings and conferences related to domestic violence, sexual assault, dating violence, and stalking.
- ✓ Held statewide meetings at the Washington Fall Judicial Conference annually since 2013.
- ✓ Delivered Regional Meetings in 2015, 2016, 2017, and 2018 at the Suquamish Tribe, Swinomish Indian Tribal Community, Quinault Indian Nation, Confederated Tribes of the Colville Reservation, and Tulalip Tribes, respectively.
- ✓ Recommended Amendments to Washington Superior Court Civil Rule 82.5 that provided for enforcement of tribal court orders and allowed communication between state and tribal courts. The amended rule went into effect September 2019.
- ✓ Sought and received a State Attorney General Opinion regarding the full faith and credit enforcement of tribal court protection orders.
- ✓ Supported Tulalip Tribes/Snohomish County collaboration on joint jurisdiction.
- ✓ Encouraged state court clerks giving Tribal Domestic Violence Protection Orders a state cause number to be entered into their systems.
- ✓ Established 2020 workgroups in the following areas:
 - Domestic violence protection order enforcement;
 - Regional meeting planning;
 - Consortium branding and messaging;
 - ICWA Courts; and
 - ICWA bench card.

Consortium Membership:

All Washington State and Tribal Court judges are invited to participate in the Washington State Tribal State Court Consortium. The consortium conducts business during its fall annual meeting and through regional meetings hosted at tribal locations. The consortium forms committees and workgroups during meetings to accomplish the initiatives of the consortium. Workgroups have four to nine participants each and meet monthly or bimonthly. TSCC related information is shared regularly through a 125-person TSCC listserv.

Leadership of the consortium includes two co-chairs, one state court judge, and one tribal court judge. The co-chairs represent the consortium on the statewide Gender and Justice Commission and Minority and Justice Commission. The Washington State Administrative Office of the Courts provides administrative support to the consortium. A more formal governance structure is in development.

2019–2020 Co-Chairs:

Hon. Cindy Smith

Chief Judge
Suquamish Tribal Court

Hon. Lori Kay Smith

Judge
Washington State Court of
Appeals
Division 1

Contact:

Kathryn Akeah
Washington State Administrative Office of the Courts
P.O. Box 41170
Olympia, WA 98504
Phone Number: 360-705-5321
E-mail Address: kathryn.akeah@courts.wa.gov

Website: www.courts.wa.gov/tsc

Wisconsin State-Tribal Justice Forum



Founded: Reestablished in 1996

Website: www.wicourts.gov/courts/committees/tribal.htm

Forum Description:

There are eleven federally recognized tribes in Wisconsin. In July 2005, the U.S. Department of Justice, Bureau of Justice Assistance sponsored a national gathering to foster tribal-federal-state court relations. The conference *Walking on Common Ground: Pathways to Equal Justice* served as the catalyst for Wisconsin to reconvene its State-Tribal Justice Forum. The reestablished committee began meeting again in 2006. Forum membership consists of five circuit court judges, five tribal judges, one tribal attorney, one legislative liaison, one district court administrator, and the director of state courts.

The committee's general charge is to promote and sustain communication, education, and cooperation among tribal and state court systems and will work to promote initiatives

outlined in the final report of the Walking on Common Ground conference.

The forum’s highest profile work to date has centered on issues of concurrent jurisdiction and transfer of jurisdiction. Also known as the “Teague Protocol” referencing a court case on the issue, the Discretionary Transfer of Civil Cases to Tribal Court, provides Wisconsin state courts the ability to transfer civil cases of concurrent jurisdiction to tribal courts when deemed appropriate through the application of enumerated standards. This rule strives to streamline the process by allowing tribal litigants to request transfer from state court using the standards provided in the rule. State court judges then have the ability to decide whether to transfer the case based upon these same standards.

Key Accomplishments
✓ Discretionary transfer of civil cases to tribal court, which allows for transfer through the application of enumerated standards.

Forum Membership:

Membership consists of five circuit court judges, five tribal judges, a tribal attorney, a legislative liaison, a district court administrator, and the director of state courts.

2019 Member Roster:

Chair:

Hon. Neal Nielsen

Judge

Circuit Court

Vilas County

Hon. Gary Sherman

Judge

District IV

Wisconsin Court of Appeals

Hon. John Anderson

Judge
Circuit Court
Bayfield County

Howard Bichler

Attorney
Wisconsin Judicare

Susan Byrnes

District Court Administrator
9th Judicial District

Hon. Shannon Cobe

Judge
Lac Du Flambeau
Tribal Court

**Hon. Candace Des Armo
Cory**

Judge
Stockbridge-Munsee
Tribal Court

Hon. Mark Goodman

Judge
Circuit Court
Monroe County

Hon. Stephan Grochowski

Judge
Menominee Tribal Court

Hon. Randy R. Koschnick

Director
Director of State Courts
Office

Hon. William Kussel

Judge
Circuit Court
Shawano County

Hon. JoDeen Lowe

Chief Judge
Ho Chunk Tribal
Court (alternate)

Hon. Leon Stenz

Judge
Circuit Court
Forest County

Paul Stenzel

Attorney
Stenzel Law Office LLC

Hon. Eugene White-Fish

Judge
Forest County Potawatomi
Tribal Court

A Product of
The Tribal Law and Policy Institute



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Additional TLPI Websites:

Tribal Court Clearinghouse: www.TLPI.org
Walking on Common Ground: www.WalkingOnCommonGround.org
Tribal Protection Orders: www.TribalProtectionOrder.org
Tribal Healing to Wellness Courts: www.WellnessCourts.org
Tribal Sex Trafficking Resources: www.TribalTrafficking.org
Child Welfare Capacity Building Center for Tribes:
www.Capacity.ChildWelfare.gov/tribes