



The New Mexico Tribal-State Judicial Consortium

Quarterly Meeting Minutes

October 13, 2017

Isleta Pueblo

Members Present:

Justice Barbara Vigil (phone), Judge M. Monica Zamora, Judge John F. Davis, Judge Pedro Rael, Judge Briana Zamora, Judge William Johnson, Judge Randolph M. Collins, Judge T. David Eisenberg, Judge Geoffrey Tager, Judge Bruce C. Fox, and Judge Allan Toledo

Staff Present:

April Barela and Peter Bochert

Also Present Were:

Beth Gillia, Center for Child and Family Justice; Judge Michelle Brown-Yazzie, Isleta Pueblo; Judge Kim McGinnis, Pueblo of Pojoaque, Brett Lee Shelton, Sr. Staff Attorney, NARF; Margaret Connors, University of Michigan Law, Timothy Connors, State Judge, Michigan; Lisa Atkinson, Judge, Tulalip plus 29 other tribes; Judge Lawrence King, Colorado River and Ute Tribes; Judge Bryan Berger, Arizona Yaqui Tribe; Cindy Aragon, Managing Attorney, NMLA NAP, Josett Monette, Staff Attorney, NMLA; and Cynthia Chavers, Bureau Chief, CYFD

Members Absent:

Judge Maria Dominguez, Judge William Parnall, Judge Renee Torres, Judge Leonard Livingston, Judge Marita Robinson, and Kyle Nayback

Welcome, Invocation, Introductions and Announcements

Judge Johnson called the meeting to order at 1:39 p.m. and April Barela recorded the minutes. A quorum of members was present, and the meeting, having been duly convened, was ready to proceed with business.

Judge Johnson welcomed everyone and led opening prayer.

Introductions were made.

A special introduction of Judge Timothy Connors, State Judge from Ann Arbor, Michigan was made. He is the presiding Judge of the State's Peacemaking Court which was created under the guidance of their Supreme Court in conjunction with their tribal courts and with the Native American Rights fund indigenous peacemaking court. They have had a positive result by using the philosophies and principles in family court. They have reduced the children in foster care by 35% in their county and the rest of the state has a 6% reduction. He will talk with Justice Bridget McCormick to encourage a conversation between herself and Justice Vigil. Perhaps Michigan and New Mexico can work together to provide ideas for the rest of the country.

There were no announcements.

Approval of Agenda:

Agenda was approved with no amendments.

Review of Strategic Plan:

A review of proposed Strategic Plan that was created as a result of the June meeting at Buffalo Thunder was conducted. The State Services and Full Faith and Credit Committees were consolidated as they were working on many common goals. Goals, objectives, action items, and time frames were set for each committee. The main goal is for the Consortium to continue working towards specific goals and keep track of the progress. One of the issues is that the Consortium work and activities is done during spare time and things are falling by the wayside. Committee chairs are encouraged to have noon time conference calls, as this is the most available time for most, to move the agenda forward.

Drug Court (Bruce Fox): An informational memo on Drug Courts was sent to the committee. Feedback from committee members is forthcoming. A follow-up meeting will be scheduled. They are trying to get a pamphlet together by the end of the year that outlines all of the recovery courts in New Mexico. They will have an update of what they've accomplished by the end of October.

The Second Judicial District Court received a grant of over one million dollars from SAMHSA. They are planning to launch a Healing to Wellness Court in January. Judge Zamora is soliciting information from the Consortium. They need more of a Native American voice involved in the discussion. They have touched base with Judge Dominguez, and have metro court's forms. They plan on observing Laguna's Court. First Nations has been invited to their meetings but, haven't been able to make them. Some suggestions were:

- Judge Collins has a program in Acoma pueblo, started without funds then secured some grants. They are looking to expand to Family/Juvenile Court. They are also looking into starting a DV Court. The Second District can reach out their Court for ideas.
- Reach out to Donalyn Sarracino.
- Stakeholders to consider are law enforcement, probation, behavior health, and cultural liaisons.
- Visit the different Healing to Wellness Courts to see the differences in each court.

A referral form to give to probation and parole for participants that live in Taos or other places is being worked on by the Drug Court committee.

Committee asked to review their goals in the strategic plan and update it or amend it with their goals.

ICWA (Kim McGinnis):

Review of ICWA bench card by Beth Gillia – see below.

JDAI (Michelle Brown-Yazzie) – In 2015-2016 a needs assessment was conducted in Isleta. Annie E. Casey awarded them a grant to be a pilot site for JDAI. They

entered into an agreement with them in 2016 and have been receiving technical assistance from the Burns Institute. They have established their leadership steering committee consisting of courts, behavioral health, social services, police department, and truancy. A work plan has been established and starting to implement it to accomplish their goals and objectives. With the funding they have established a full-time coordinator to implement the JDAI initiative and other special projects. They have had visitors come to see what they are doing and are also visiting other sites.

They have been working very closely with Bernalillo County which has one of the first JDAI sites started in the country. They've decreased the juvenile detention rate by 70% in the last 10 years. They work with Isleta Pueblo directly with the kids from their jurisdiction to provide services and monitoring. They are reaching out to Valencia County as well.

They have peacemakers involved and are still exploring how they are going to create their model. Judge Brown-Yazzie and Judge Zamora participated in a site visit in New Jersey where they have taken JDAI to scale with all but one county. They had money that was dedicated to them from their Supreme Court and Administrative Office of the Courts to set up JDAI statewide. They were able to see the big picture with what they are working on now. They brought back a big binder with all their templates and forms.

Judge Zamora gave a brief explanation on the history of JDAI for the guests.

Isleta will be template for San Juan and McKinley Counties. The players have done a great job working with Navajo Nation. Faith Russell, AAIA acting executive director is going to get involved. A planning meeting will take place in January/February 2018 for the President, Justice Vigil, Judge Zamora, and other higher stakeholders to present the plan for taking the state to scale and how to incorporate Navajo Nation and bring them to the table.

State Services/Full Faith and Credit (Randolph Collins):

The big news is that the model order for involuntary commitments, both juvenile and adult orders, came out of committee and will be in front of the Supreme Court. The orders look good and are a product of two years of work.

Judge Collins was appointed as the new Chair for the committee.

The committee is looking over some recommendations of changes to the Children's Court rule and potential changes in statute regarding when notice is given to the child's tribe. They would like the notice to be earlier in the process, at the filing of the petition in compliance with ICWA. There was some discussion on whether or not they needed a change in the statute as opposed to just changing the rule. The committee is looking at changes to 32A-1-8, jurisdiction of the court; tribal court jurisdiction. Language does not strike out the language for an agreement between the state and tribe before the order is recognized. Omission of this language will prevent delays. There doesn't necessarily need to be an agreement between the tribe and the state with the idea being that if the tribe orders the juvenile into state's services that the tribe keeps a closer connection with the juvenile and it's predicated on the same reasoning that we use for the model orders that child is citizen of both the tribe and the state and that maintaining the closer connection between the tribe and the juvenile enhances the state services.

Probation has attempted to notify the families and the tribe with some negative feedback from families. Families have gotten upset and have caused problems for the child which makes it hard for the child to be successful with probation.

Probation started sending informal Notices to pueblos as soon as an Indian child enters the PS system. Navajo Nation are the only ones that have asked CYFD to stop sending the notices. The hope is to bring in families and resources earlier in the process.

Legal aide brochure explained by Cindy Aragon that outlines issues with parents of Indian Children not being provided adequate due process during informal meetings with CYFD. CYFD recognizes there are some issues with family centered meetings.

A physical impact report on how many Indian children are affected is needed for legislative purposes.

There are no real statistics showing how many Indian Children are in the system. Deficiencies in tracking ICWA children in both CYFD and the courts Odyssey systems need to be addressed.

Budget

The budget is the same as last year. There is some for a ¼ time staff position, the rest is mostly in contractual services and some in travel. We need to reserve a placeholder, about \$4,000, for Beth Gillia for the extensive work she's done on the bench cards.

Replacement of Mescalero Judge due to Judge Knight's Vacancy

A new Judge was scheduled to begin in Mescalero on October 3rd, but withdrew her application. The vacancy will remain open pending an appointment of a judge.

Pre-scheduled Meeting Dates:

Pre-scheduled meeting dates were discussed to make planning easier. The next meeting will be held at the CLI Conference on January 10, 2018. Remaining dates are still to be determined. The third Friday of the month was suggested with the April meeting being held on April 13, 2018.

If FY18 funds are used to pay for the retreat it needs to be held in June with everything paid out by the tight deadlines given by DFA at the end of the fiscal year. The date for the retreat will be determined as we get closer.

Presentation by Beth Gillia on the ICWA Bench Card:

Beth explains the changes made to the bench card since it was last disseminated to the Consortium members. The bench card is not a full explanation of the law, but the information contained comes straight out of the law and is not an interpretation of the law. The bench card is New Mexico focused.

Motion made by Judge Monica Zamora and seconded by Judge Briana Zamora for clarification and consistency on bench card.

Rules Committee will be sending up rules on the following:

- Intervention rules for ICWA;
- Conduct of hearing rule allowing representatives of tribes in hearings;
- 10-314 Advisement of rights to parents;
- Change of placement notice to tribes; and
- Relinquishment form for all cases with specific language when an Indian child is involved.

CCIC Protective Services Committee is working on a pilot project with San Juan and McKinley Counties for a Peacemaking Court. They will be using Judge Connors as a resource.

Beth recommends a joint meeting with CCIC and TSJC and will suggest it to CCIC's Leadership Committee also.

Report on Consortium presentation to the Indian Affairs Committee in Zuni:

The TSJC annual report and committee reports were present to the Indian Affairs Committee in Zuni.

Representative Worley offered to review information that will be presented to the legislature.

Contact Georgine Lewis to get pictures from the meeting.

Report on August presentation to Casey Family Foundation Board of Trustees:

Judge Zamora and Judge Johnson presented to the board. They are interested in ICWA data. They will have a follow-up meeting in two weeks.

Nominations for 904 Task Force through the U.S. Department of Justice, Office of Violence Against Women:

Judge Peggy Bird was nominated to serve on 904 Task Force. The Consortium will issue a letter of support for Judge Bird. A motion was made by Judge Eisenberg to support Judge Bird's nomination, second by Judge Fox. Judge Johnson abstained.

Tribal Judge to participate in a panel presentation at the American Indian Justice Conference in Palm Springs, CA:

Judge Collins will attend this conference.

Other Business:

The Navajo Nation Judicial Conference will be held on October 30 – November 3, 2017 in Arizona. The Consortium was invited to take concerns to this conference. If not able to make it, Dorothy Waisanen offered to present information on behalf of the Consortium.

Next meeting

January 10, 2017, 9:00 a.m. at the CLI Conference.

Motion to Adjourn by Judge Taeger, 2nd by Johnson: 3:51p.m.