



The New Mexico Tribal-State Judicial Consortium

*STRENGTHENING RELATIONSHIPS, FOSTERING
COMMUNICATIONS*

Quarterly Meeting

Wednesday, January 11, 2017, 9:00 a.m.

Children's Law Institute Conference

Hotel Albuquerque at Old Town

800 Rio Grande Blvd. NW

Albuquerque, NM 87104

Potters Conference Room

Started at 8:55 and closed at 11:20 a.m.

I. Attendees:

<u>Tribal Judges</u>		<u>State Judges</u>
Judge William Johnson	Acoma Pueblo	Judge M. Monica Zamora, Court of Appeals
Judge Randy Collins	Acoma Pueblo	Judge John J. Romero, 2 nd Judicial District
Judge Geoffrey Tager	Ohkay Owingeh Pueblo	Judge Wm Parnall, 2 nd Judicial District
Judge Kim McGinnis	Pojoaque Pueblo	Judge Briana Zamora, 2 nd Judicial District
Judge Joseph Little	Zia Pueblo	Judge John F. Davis, 13 th Judicial District
Judge David Montoya	Zia Pueblo	
Judge Vincent Knight, Jr.	Mescalero Apache	
Judge Marita Robinson	Jicarilla Apache	
Judge Arlinda Gonzalez	Jicarilla Apache	
Judge T. David Eisenberg	Taos Pueblo	
Judge Bruce Fox	Laguna Pueblo	
Judge Vincent Knight, Sr.	Isleta Pueblo	
Judge Mekko Miller	San Felipe & San Ildelfonso Pueblos	

Other Attendees:

Jennifer Vieira (AOC/TSJC Staff)
 Donalyn Sarracino (NM-TIC/Acoma Pueblo Social Services/ICWA Consortium)
 Catherine Begaye (attorney)
 Jolene Natewa (CYFD/CPS)
 Leigh White (CYFD/CPS)
 Shawnee Zigler (YDI)
 Kyle Nayback (USDOJ)
 Josett Monette (NMLA-NAP)
 Patricia Galindo (AOC)
 Laura Bassein (UNM/Institute of Public Law)

II. Approval of Agenda and minutes from July and October: agenda approved and minutes were adopted

III. Welcome, Invocation, Introduction, and Announcements: Welcome and introduction done by co-chairs, invocation by Donalyn Sarracino.

IV. Action Items:

Vacancies: It was proposed by co-chairs and adopted by the membership for Judge Briana Zamora to be moved to a voting member, Renee Torres of Metro Court to move in as a full member, Judge Romero to continue as Title IV-E chair, Judge Vincent Knight Jr as the new Mescalero member, Vincent Knight Senior stepping down as northern pueblo position to be replaced with Judge Eisenberg from Taos, Marita Robinson accepted the position for the Jicarilla Apache Nation. Judge Tager offered to talk with Judge Jennifer Attrep at the 1st for the other state member opening.

ADD: Judge Robinson

V. Consortium Focus for 2017:

Committee chairs were asked to get together before April on attainable goals for 2017.

- State Services & FFC said they would get together to review the North Dakota court rule on recognition of Adult and Juvenile commitment orders and would get their findings to Judge Zamora for submission.
- Thus far, JDAI efforts and focus have been centered in the Albuquerque area and Isleta Pueblo. Judge M. Monica Zamora and Justice Barbara J. Vigil have taken up the challenge and goal to expand these programs around the state. They met with the Association of Counties, Supreme Court, CYFD, and Casey Family Programs for a meeting with the Navajo Nation to discuss expanding the program into their jurisdiction. President Begay was extremely interested and is doing an assessment to determine the next steps.
- Judge John Romero asked Jennifer to set up a time for the next Title IV-E Committee call in meeting.

VI. Other Business

- Year-End Consortium Report was submitted to the Supreme Court Justices, emailed to both the House and Senate members of the State Legislature. It will soon be up on the website.
- Budget for FY 2017: Budgets being slashed but overall expenses are down, and current projections will carry us through to the end of the fiscal year pending the outcome of the legislative session and any further cuts they may impose.
- Judge William Thorne, court of appeals judge from Utah will be presenting at the Conclave, his focus will be ICWA. The members are enthusiastically anticipating this presentation at Conclave.
- Judge David Eisenberg presented on Taos Pueblo Drug/Wellness Court MOU:

The impetus for the MOU was the wellness recovery program and the problems that they were having with Taos Pueblo clients going through either or both the healing court and probation in state court. When clients were not in compliance, there were questions on how to proceed and communication between tribal and state courts was limited. Judge Eisenberg met with the Taos Magistrate Court to discuss the issue. A collaboration between both judiciaries was discussed with Judges Ernest Ortega and Jeff Shannon. Though it was a long process, jurisdictional issues were

addressed and with the permission from the AOC to the Taos Magistrate Court, an MOU was created to fill in the gaps of the treatment process.

Any individual who is a member of a federally recognized tribe may participate in the Wellness Court. Clients have to opt in and in doing so they agree to be supervised for the duration of the treatment by the tribal court. There are no separate probation violation proceedings and any violations are dealt with in the tribal court until they are terminated or complete the treatment. When a client successfully completes the program or is terminated the Tribal Court immediately notifies the Taos Magistrate court. Throughout the process the Wellness Court team and the coordinators from state courts keep in communication on the client's progress. When a client has a violation outside Taos it can get a little challenging to deal with. Typically, they are terminated from the program and revoked back into state courts if the violation is deemed serious or if they were unable to proceed with treatment due to obligations in another jurisdiction. The client would later have to request to be reinstated.

Judge Briana Zamora asked whether probationers from around the state could be referred to this treatment if they belong to a tribe other than Taos or if they belong to Taos but live somewhere else where they have state probation. Judge Collins asked if they would enter into an MOU with Acoma with the same kind of agreement among the probation officers, court and wellness courts. To both questions Judge Eisenberg stated that both options were possible and if they had specific cases they needed to discuss they could meet later to talk more in detail.

Judge Eisenberg then invited members of the consortium to the grand opening of the new courthouse grand opening in Taos, February 9, 2017.

- Model orders are still with the Supreme Court and have not been reviewed.
- Judge Mekko Miller with San Ildelfonso and San Felipe Pueblos was invited to participate in the Tribal Issues Group, hosted by the U.S. Sentencing Commission. The Tribal Issues Group will meet to discuss how cases are prosecuted at the Federal level and how federal convictions may affect tribal and state convictions. [For example, a person convicted of a domestic violence offense at the state/tribal level could have their right to own a firearm taken away if the federal case was their third such offense. The members discussed the consequences of such an action if a tribal member was not allowed to hunt with a firearm and therefore provide for their family.] Patricia Galindo added that she and Celina Jones at the AOC are working on language that will be included in state court convictions which will give a defendant notice that the criminal conviction will be forwarded to the FBI and they may be prohibited from legally owning or purchasing a firearm. She offered to share that wording and information with the Tribal Judges as it will also be distributed to the State Judges along with any training materials. Judge William Parnall offered his assistance to Judge Miller regarding feedback to the Tribal Issues Group. Judge Miller confirmed that he will return with an update to the Consortium on what is discussed, where their focus will be and how it may affect local efforts.

Judge Eisenberg, in response to Patricia Galindo's reference to criminal convictions, raised the issue regarding Tribal court convictions for domestic violence and firearms restrictions which then led to discussion over Federal sentencing guidelines. The discussion also included the sentencing guidelines and 'downward departures' based on tribal or cultural considerations. Kyle Nayback, Assistant United States Attorney, District of New Mexico added his opinion and indicated some of the factors his office relies on for charging decisions.

- Donalyn Sarracino, Pueblo of Acoma Social Services, updated on ICWA Consortium. She stated that Judge Knight has helped to create by-laws. There has been a change in leadership this year and they are still focused on training social workers and getting recognition in state courts. Judge Parnall proposed that if a tribe intervenes in a child welfare case then they become a Party to the case and would be added

by clerk who would be directed by the state judge to do so. This would help to get state judges to recognize the tribes and the social workers who would need to be up front while the case is being heard/available to provide input on behalf of the tribe. The ICWA Consortium will be distributing a list of social workers in jurisdictions around the state so that judges will know who to contact with an ICWA child is involved. They are also working on unifying the licensure of the social workers to further promote recognition and standards.

▪ Meeting Planning in 2017:

Judge Kim McGinnis offered Pojoaque to host the meeting in April but it was then determined that Friday, March 31st would be the optimum date with the other judicial obligations going on in April.


July meeting will be hosted by the Navajo Nation with date and venue to be finalized with Judge Livingston.


The October meeting will either be hosted by the Children's Court in Albuquerque or at ZIA Pueblo, pending the completion of Zia Pueblo's new courthouse, as offered by Judge David Montoya. It was further proposed that the October meeting should be coordinated with the National Court Judges/ICWA Conference, which will be going on at the same time. A potluck reception for those members may be accomplished pending further planning and venue finalization.


VII. Meeting Adjourned at 11:20 a.m. and was given a closing blessing by Judge Eisenberg.

VIII. Upcoming Meetings:

 **Tribal-State Meeting: March 31, 2017 in Pojoaque Tribal Court (Hosted by Judge McGinnis)**

 **Tribal-State Meeting: July 7, 2017 (Hosted by the Navajo Judiciary in Grants, pending confirmation of date and venue)**

 **Tribal-State Meeting: October __, 2017 (Venue and date TBD) 1st pick is Zia Pueblo, but if courthouse isn't finished then at Children's Court 2nd Judicial; possibly to be paired with the Judge's Conference going on at that same time.**

 **Isleta Pueblo was another meeting site because the National American Indian Court Judges Association (NAICJA) is holding its annual national conference at the Isleta Resort and Casino at Isleta Pueblo in October 2017. We could ask Judge Yazzie-Brown (now the judge at Isleta Pueblo Tribal Court) if she could host the meeting – the tribal court is 200 yards south of the casino).**