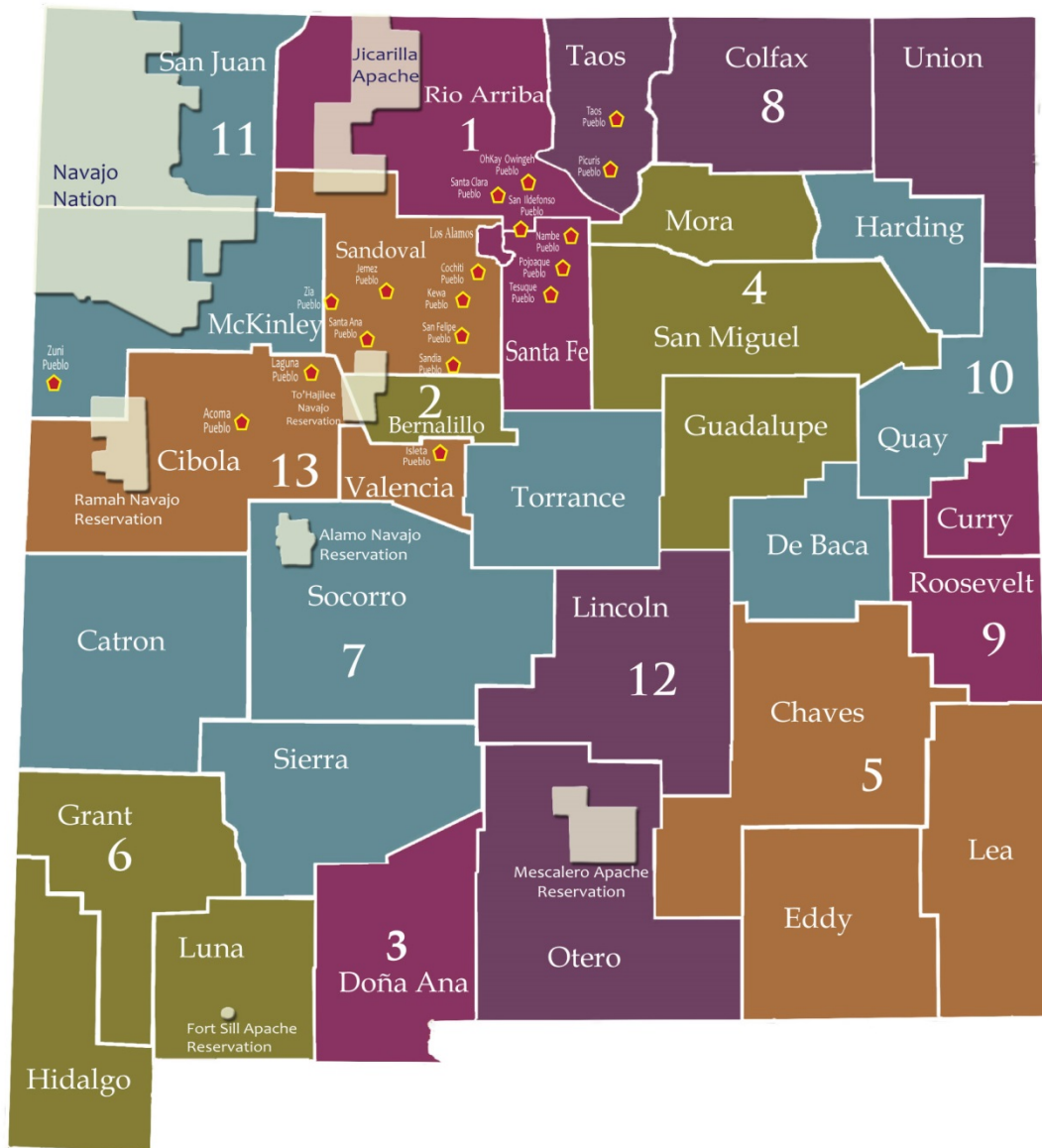




**State of New Mexico  
Tribal-State Judicial Consortium  
Annual Report - 2017**

# New Mexico

## Tribal Nations & State Judicial Districts



## Message from the Co-Chairs

As Co-Chairs of the New Mexico Tribal-State Judicial Consortium, we would like to present the 2017 Annual Report. This report highlights the work the Consortium has done throughout the year and activities planned for 2018.

The Tribal-State Judicial Consortium has continued to work hard to establish and maintain local relationships and communications between both Tribal and State courts by working collaboratively on cross-jurisdictional issues. The important work of the Consortium is an ongoing process that will continue to provide a solid platform from which both judiciaries can build and support each other, and ultimately for the benefit of the citizens of the State of New Mexico.

We intend to keep up the momentum to achieve our common goals.

Thank you.



Judge William Bluehouse Johnson



Judge Monica Zamora



*Members of the Tribal State Judicial Consortium meet for their winter quarterly meeting at the 2017 Children's Law Institute.*

## Mission

The Tribal-State Judicial Consortium is a Supreme Court advisory body that consists of seven State and seven Tribal judges. The Consortium's mission is to encourage and facilitate communication and collaboration between State and Tribal court judges on common issues such as child welfare, domestic relations, and juvenile justice and drug/wellness courts. From this Mission Statement three goals have been set:

- 🔊 Create rapport between State and Tribal judges
- 🔊 Educate and train State and Tribal judges and leadership
- 🔊 Review and support implementation of State services for Native children and families on and off the reservation.

The membership meets quarterly to address cross-jurisdictional issues. The Consortium also works to organize training and education for judges within both judiciaries on federal and state rules and procedures.

## Year in Review

Fiscal Year 2017 saw a renewed focus by the Consortium on the work within each sub-committee as follows:

### Drug and Wellness Court Committee

serves as a liaison and resource for state Drug and Tribal Wellness Courts. The Drug Court Committee formed in 2016, consists of four judges. The goal of the committee is to promote the use of problem solving courts in New Mexico courts and tribal courts.

“Problem solving courts” refers to courts that use a drug court model to address individuals whose substance abuse is the driving force behind criminal activity. In New Mexico there are 52 problem solving state courts, which are made up of adult and juvenile drug courts, family dependency courts, DWI courts, and mental health courts. Additionally, the tribes have eight Healing to Wellness courts, which are similarly modeled on national drug court standards.



The national drug court standards that the State and Tribal courts follow call for an approximately one-year long intensive outpatient treatment with regular court appearances and strict probation supervision. Results on a national level have shown that such programs reduce recidivism and lead to one-time substance abusers becoming better community members.

A major accomplishment this year was the memorandum of understanding between the Taos Pueblo Tribal Court and the Taos County Magistrate Court allowing state defendants to undergo treatment and supervision by the Tribal Wellness Court. Another significant commendation is the Pueblo of Laguna Tribal Healing to Wellness Court's recognition by the National Drug Court Institute with a prestigious award. The Healing to Wellness Court will also act as a national "Mentor Court" for the next three years. Plans include creating a services pamphlet, which would be distributed as a reference to the various Drug Court and Wellness Court programs within the state.

During 2017, to promote the use of problem solving courts the committee has been working on developing standards to allow the transfer of individuals between jurisdictions. For example if a Native American lives on a reservation near Santa Fe but commits a crime in Albuquerque, the individual could then complete a tribal healing to wellness court program in his or her jurisdiction instead of reporting to probation in Albuquerque. A Taos magistrate court judge and Taos tribal court judge currently have an agreement to collaborate on such transfers, but for the rest of the state it is not done regularly, and only on a case-by-case basis, depending on the jurisdiction and the judges.

The Drug Court Committee is also working on a policy statement providing an overview of problems solving courts' processes and effectiveness on a national and local level. The ultimate goal is to have the Consortium adopt such a policy promoting the benefits of problem solving courts.



Finally, the committee has been working on identifying a list of funding sources to support problem solving courts to distribute to Consortium members and others in New Mexico. This is typically direct government funding, foundations, or grants. This will be a helpful resource for new problem solving courts or ones that have staffing turnovers.

#### **Plans for 2018:**

Since its inception, the Drug Court Committee has met at the quarterly Consortium meetings as well as two to three times during the year. We will continue with that schedule in 2018. As to committee work we will also continue to work on the issues we worked on in 2017: jurisdictional transfers, funding sources, and a policy statement. The Committee expects to finish the policy statement and funding source list prior to the end of 2018.

**ICWA/Title IV-E Committee**, in collaboration with the University of New Mexico's Corrine Wolfe Children and Families Law Center, is updating bench cards for judges regarding the Indian

Child Welfare Act. The revisions reflect the latest U.S. Bureau of Indian Affairs rules and regulations that went into effect in December 2016.

**Juvenile Detention Alternatives Initiative Committee (JDAI)** has continued to support Isleta Pueblo's pilot program, which provides detention alternatives for juveniles within the tribal court system. The Committee continues to participate in the Statewide Leadership Team by working with the Navajo Nation, the Children, Youth & Families Department, the Eleventh Judicial District Court, and the San Juan County Juvenile Services Facility to incorporate the expansion of JDAI into San Juan County. In October, Judge Monica Zamora, Judge Michelle Brown-Yazzie as well as other representatives from the Statewide Leadership Team attended a Conference in Princeton, New Jersey to learn about and explore ideas on expanding JDAI throughout the State with a focus on including our tribal partners. The Statewide Leadership Team's ultimate goal is to expand JDAI throughout the State.

**Rapport/Communication Committee** encouraged Tribal and State judicial leaders to broaden participation in the Consortium. The Consortium was proud to welcome back a member from the Jicarilla Apache Tribal Court, Chief Judge Marita Robinson, in March 2017. The Committee's ongoing goal is to maintain and foster communication between Tribal and State judges.

**2017 Committee Presentation:** In July, Co-Chair Judge William Bluehouse Johnson of Acoma Tribal Court and Judge Renee Torres of Bernalillo County Metropolitan Court presented to the House State Government, Indian & Veteran Affairs Committee at their summer quarterly meeting held at Zuni Pueblo. Together, the judges brought the important work of the Consortium to a broader audience and invited future participation by those in attendance. The following was presented:



*Swearing In Ceremony- Southwest Indian Law Clinic*

- Establishing document: New Mexico Supreme Court Order
- Consortium Membership Roster
- 2015 and 2016 Consortium Annual Reports
- Draft of Strategic Plan
- Description and work of committees and accomplishments
- Collaborative work with:
  - ◆ Children's Court Improvement Commission
  - ◆ National Council of Juvenile and Family Court Judges
  - ◆ UNM School of Law Tribal Law Journal



They were asked about Tribal jurisdiction and recognition of Tribal Court orders. We offered that the Consortium was developing rules for recognition of Tribal mental health commitment orders and also had the Project Passport common first-page Supreme Court rule and form. There was specific interest by Senator Cisco McSorley in having the Consortium provide him with any research and possible legislation related to our work. Senator McSorley offered to assist in any legislative work. The time of the presentation was limited and the presentation ended with the discussion regarding recognition of Tribal Court orders.

**State Services Committee/Full Faith and Credit Committee** continued work to obtain state recognition of tribal court orders for allowing tribal members access to state services. The committee began this effort by drafting model adult and juvenile involuntary commitment orders. The orders were submitted to the State Supreme Court for its review. In August 2017, the Ad Hoc Committee on Rules for Mental Health Proceedings wrote Consortium Co-Chair, Judge Monica Zamora, stating that the Ad Hoc committee was recommending the orders for adoption by the Supreme Court. If the Supreme Court approves the recommendation, the proposed orders will be published for comment in March of 2018 and will be eligible for final approval with an effective date of December 31, 2018.

By way of background, Native American children and families have a great need for increased services. Native Americans, whether ordered by tribal or state court, are New Mexico residents entitled to access state services.

Further, studies show that culturally sensitive programs -- including programs promoting tribal customs, are more effective in reducing recidivism, providing restorative justice and reform. Studies show that continued and improved exposure to tribal tradition encourage youth and families participation in their tribal community and tribal customs.

After three years of hard work and cooperation for tribal and state judges, as well as our mental health stakeholders, the Consortium proposed model mental health orders that incorporate state legal requirements for juvenile and adult involuntary commitments. The orders are intended to be used by tribal courts for committing individuals to state mental health facilities. The basic idea is that these model orders would be recognized by state courts without having to take the additional time consuming step of having a district court domesticate the tribal court order. This procedure would be similar to the way that Project Passport enhances the ability of tribal courts to have its protection orders automatically recognized and enforced by state courts. (See District Court Civil Form 4-965, authorized by Supreme Court Order No. 08-830-40).



*From left to right: Patricia Galindo of AOC, Delena OtherBull, Executive Director of the Coalition to Stop Violence Against Native American Women, and Chief Judge Randolph Collins present on protection orders to the Coalition to Stop Violence Against Native American Women on December 6, 2017, in Palm Springs, CA.*

### **2017 Committee Presentations:**

In October, Chief Judge Randolph Collins and Consortium Co-Chair, Judge William B. Johnson made a presentation entitled “*How Tribal Self Determination May Save Civilization*” to the National American Indian Court Judges Association (NAIJA) at the Isleta Pueblo. The talk had two parts. The first part was a practical approach emphasizing among others, Consortium initiatives that demonstrate how tribal communities can be improved through tribal and state efforts that enhance Native American self-determination. The second part of the presentation focused on an attempt to broaden the theoretical justification for tribal self-determination by showing how supporting it is not just important for Native Americans, but for everyone.

Second, in December, Chief Judge Randolph Collins, Acoma Pueblo, and Patricia Galindo of the Administrative Office of the Courts, were joined by Delena OtherBull, Executive Director of the Coalition to Stop Violence Against Native American Women in presenting on protection orders and the Violence Against Women’s Act (VAWA) for the 2017 Tribal Law and Policy Institute conference in Palm Springs. The conference and the presentation focused upon emerging strategies in Tribal/State collaboration to improve enforcement of tribal protection orders.

### **Plans for 2018 and beyond:**

The Committee intends to build on its success by examining other changes to improve access to state services by tribal members. These changes focus on state recognition of tribal juvenile court orders as well as ensuring that tribes are notified and can act appropriately if a tribal youth is charged in the state juvenile justice system.

The following changes to New Mexico court rules and statutes are under consideration:

Discussion of change to “Children’s Court Rule 10-211, Preliminary inquiry; filing of petition, section D”. The suggested language to be added is “If the child is an Indian Child, the Child’s tribe shall be given notice of the filing of the petition. The form and manner of the notice shall comply with the provisions of the federal Indian Child Welfare Act of 1978.” All present agreed that this change is needed and it is ready to present to the Consortium for approval to move forward.



Discussion of change to Statute “32A-1-14. Notice to Indian Tribes.” The suggested section to be added is “C. In a delinquency proceeding, if the child is an Indian Child, the Indian Child’s tribe shall be notified of the filing of the petition. The form and manner of the notice shall comply with the provisions of the federal Indian Child Welfare Act of 1978.” All present agreed that this change is needed and it is ready to present to the Consortium for approval and to discuss and obtain input from our juvenile justice tribal and state stakeholders. However, the Consortium should discuss whether a legislative change is necessary or advisable given the recommendation to change Rule 10-211.

Discussion of change to Statute “32A-2-5 Juvenile probation and parole services; establishment; juvenile probation and parole officers; powers and duties.” The suggested language to be changed to section B number 9 is “notify the Child’s tribe if the filing of a delinquency petition is recommended by the department;” All present agreed that this change is needed and it is ready to present to the Consortium for approval to discuss and obtain input from our juvenile justice tribal and state stakeholders. However, the Consortium should discuss whether a legislative change is necessary or advisable given the recommendation to change Rule 10-211.

Discussion of 32A-1-8(E), “Jurisdiction of the court; tribal court jurisdiction.” Delete two of the three references to “pursuant to intergovernmental agreements” but retain this language with an additional amendment that reads, “A tribal court order pertaining to an Indian child that accesses state resources shall be recognized and enforced pursuant to the provisions of intergovernmental agreements if such agreement exists between the Indian child's tribe and the department or another state agency. An Indian child residing on or off a reservation, as a citizen of this state, shall have the same right to services that are available to other children of the state.”

The Committee is also looking into expedited state recognition of tribal court orders. Other states such as North Dakota and Wisconsin have done so. North Dakota has established the “equivalent of foreign nations” for purposes of recognition, promoting justice, encouraging better relations between tribes and the state and to encourage reciprocal action by the tribes. The North Dakota statute does not apply when federal full faith and credit already applies (e.g. ICWA, VAWA). In Wisconsin, judicial records, orders and judgments of an Indian tribal court in Wisconsin and acts of an Indian tribal legislative body have same full faith and credit in their state courts if certain conditions are met.



## Quarterly Meetings

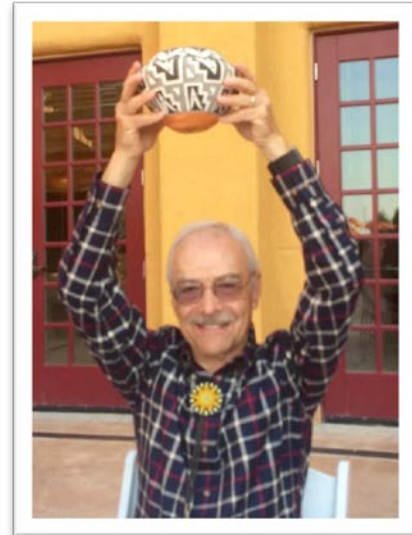
In January 2017, Consortium members attended the 24<sup>th</sup> annual Children's Law Institute Conference in Albuquerque, New Mexico. The January quarterly meeting was also held at the conference site. Judge David Eisenberg presented on the Taos Pueblo Drug/Wellness Court MOU. Judge Mekko Miller with San Ildefonso and San Felipe Pueblos was invited to participate in the Tribal Issues Group, hosted by the U.S. Sentencing Commission.

In March 2017, Consortium members attended the March quarterly meeting hosted by Judge Kim McGinnis and the Pojoaque Pueblo Tribal Council. Kyle Nayback, Federal Liaison, U.S. District Attorney's Office, Department of Justice, updated the members on the current cases going through his office. Judge Johnson presented on the National Indian Court Judges' Association. NICJA provides training and education to tribal courts. Anne Rothrock, editor of the UNM Tribal Law Journal, gave a brief synopsis of the ongoing work to revitalize and update the Tribal Court Handbook. Laguna Tribal Court was recognized to be part of the National Drug Court Institute's Mentor Court Program.

In April 2017, Consortium members attended a meeting hosted by Judge Brown-Yazzie and the Pueblo of Tesuque. Philip Huntman from the University of New Mexico School of Law's Southwest Indian Law Clinic presented on the ICWA-Full Faith and Credit. Debbie Andrews addressed the Consortium about a grant proposal for a domestic violence registry from BJA.

In June 2017, the Tribal-State Consortium convened to engage in a planning session at the Buffalo Thunder Resort in Santa Fe, New Mexico. The event was attended by the members of the Consortium, which allowed for planning, strategic discussion and some immediate scheduling of events throughout the remainder of the 2017 annual calendar. In addition, the Consortium members were able to clarify committee reorganization, confirm committee membership and determine the course of action and implementation for each of the committees for the coming three years. See the reformulated Strategic Plan below.

At the June 2017 planning session, we said goodbye to Judge James J. Wechsler of the Court of Appeals and wished him well with his impending retirement. On behalf of the Consortium, a beautiful piece of pottery from the Pueblo of Acoma was presented to him. Judge Wechsler was the longest serving member of the Consortium, having served since its inception. He was a valuable asset to the Consortium and his historical knowledge was priceless. We wish him all the best.



*Judge James J. Wechsler*

In October 2017, Consortium members attended the October quarterly meeting hosted by the Isleta Pueblo. Presiding State District Court Judge Timothy Connors, from Ann Arbor, Michigan, presented on their Peacemaking Court. The Peacemaking Court was created in collaboration with the Michigan Supreme Court, local tribal courts, and the Native American Rights Fund Indigenous Peacemaking Court. A suggestion was made that a similar initiative could be implemented in New Mexico based on the success of the program in Michigan State Court.



From Left: Judge Monica Zamora, Judge William Johnson, and Judge Timothy Connors pose for a fun shot after the October quarterly meeting.

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 2018.

Cindy Aragon, of NM Legal Aid, presented on their new brochure which outlines issues involving parents of Indian children who are not being provided adequate due process during informal meetings with CYFD.

Beth Gillia, of the Corrine Wolfe Center for Child and Family Justice, presented the updated ICWA Bench Card.

Judge Peggy Bird was nominated to serve on 904 Task Force through the U.S. Department of Justice, Office of Violence Against Women.

## Strategic Plan:

### Drug Court Committee

Goal	Objective	Action
Promote Tribal-state HTW/recovery court as an alternative to incarceration	Create pamphlet promoting recovery courts	Send memo to committee. Committee to respond. Incorporate changes. Put into pamphlet format.
Encourage Collaboration among state/tribal and state/federal drug court programs/HTW	Develop a master list and pamphlet of tribal, state, magistrate DWI/Drug Court/HTW programs with contact info and indicate whether and how they accept referrals. Arrange a meeting with tribal, state, magistrate and federal Judges to discuss consortium objectives.	Contact TLPI to have time at the Annual Drug Court Conference.
Identify a general	Develop draft process and a	Email team regarding input

referral/transfer progress	revision as needed.	process. Revise draft process as needed.
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### **ICWA Committee**

<b>Goal</b>	<b>Objective</b>	<b>Action</b>
Bench Card/Folder	Enter into contract with Beth Gillia by September 1 <sup>st</sup> .	Sign contract
Guardianship Bench Card	Explore possibility of adding to bench card.	Explore possibility of adding to bench card.
New Rules	Write the rules.	Keep in contact with Children's Court Rules Committee.
Tribal Motion to Intervene (Form)	Develop best practices.	Discussions between Tribal and State judges.

### **JDAI Committee**

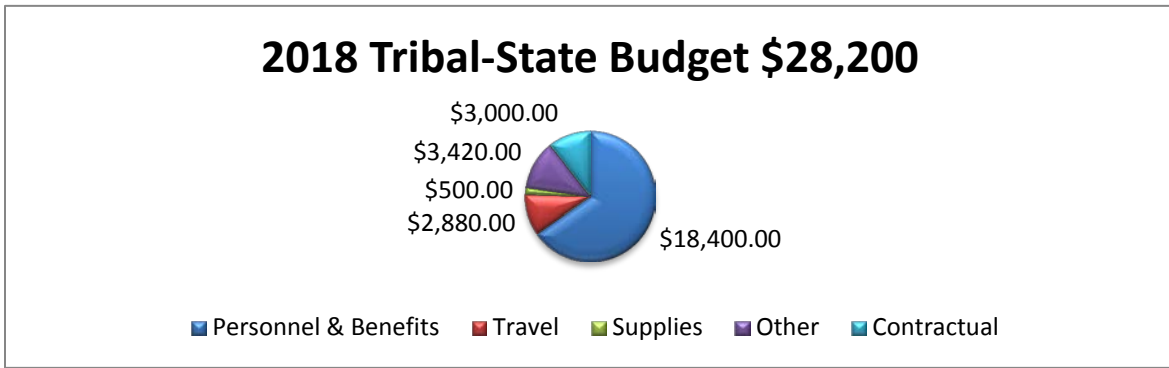
<b>Goal</b>	<b>Objective</b>	<b>Action</b>
Isleta Progress	Quarterly contact with Pueblo.	Email pueblo and Burns Institute.
State to Scale	Stay involved.	Keep attending meetings.
Native Project (New) Empower the nation to Identify needs	Identify resources. Gather data.	Contact the resources already identified. Community progress meetings.

### **State Services/Full Faith & Credit Committee**

<b>Goal</b>	<b>Objective</b>	<b>Action</b>
Tribal orders of protection entered into NCIC	Determine grant funding.	Training and education of tribal stakeholders IB. Buy-in by tribes.
Recognition of tribal mental health, involuntary commitment orders by state	Obtain recommendations from committee to Supreme court.	Monitor status at mental health rules committee.
Change in notification of delinquency petition to tribes	Identify which statutes rules should be changed for prior notification.	Find sponsor for legislative changes. Obtain CYFD's support for legislative change.
To provide information and training on NICS firearms reporting	Email and consensus on issues consortium members want to address related to NICS/firearms.	Email committee members.
Research the recognition of tribal court orders in district court	Identify issues, define scope of work and ask UNMSOL for commitment to locate law student extern/ court observation. Research and white paper completed.	Send a letter to UNMSOL.

# Tribal-State Consortium Funding

The Tribal-State Consortium received \$28,200 in State General Funds.



## Summary

The New Mexico Tribal-State Judicial Consortium has been recognized locally and nationally for its revolutionary work. The state and tribal judges continue to focus on initiatives that seek continuous quality improvement in their interactions as well in their respective courts, while simultaneously cultivating invaluable professional relationships. We are proud of our efforts and accomplishments as we continue to grow and collaborate between the two judicial systems for the benefit of all New Mexico citizens.



## Committee members:

### Drug Court

Judge Bruce Fox, Laguna (Chair)  
Judge Joseph Little  
Judge Kim McGinnis  
Judge M. Monica Zamora  
Judge Maria Dominguez  
Judge T. David Eisenberg  
Judge Renee Torres

### ICWA/Title IV-E

Judge M. Monica Zamora (Chair)  
Judge Kim McGinnis

### JDAI

Judge M. Monica Zamora (Chair)  
Judge Kim McGinnis  
Justice Barbara J. Vigil  
Judge Marita Robinson

### Rapport/Communications

Judge M. Monica Zamora (Co-Chair)  
Judge William "Bluehouse" Johnson (Co-Chair)  
Justice Barbara Vigil, NM Supreme Court  
Judge Kim McGinnis  
Judge John F. Davis  
Judge William Parnall

### State Services/Full Faith & Credit

Judge Randy Collins, Acoma (Chair)  
Justice Barbara J. Vigil  
Judge Geoffrey Tager  
Judge William "Bluehouse" Johnson  
Judge William Parnall  
Judge Allan Toledo  
Patricia Galindo  
Judge Vincent Knight



**APPENDIX INCLUDES THE FOLLOWING:**  
**SUPREME COURT ORDER WITH MEMBERSHIP ROSTER**