

Meeting Summary

Tribal Court State Court Forum

Friday, April 26, 2019

Hosted by: Tribal Court of the Shakopee Mdewakanton Sioux Community

The purposes of the Tribal Court State Court Forum are to enhance tribal court and state court relationships, provide an opportunity to address issues arising from the courts' concurrent jurisdictions, collaborate on development and delivery of judicial education and training, recommend revisions to Minnesota's procedural rules of court, and work on issues that cross jurisdictional boundaries.

[Link to TCSC Forum website](#)

Tribal Court Co-Chairs: Hon. Henry Buffalo and Hon. Lenor Scheffler
State Court Co-Chairs: Hon. Lucinda Jesson and Hon. Sally Tarnowski

Welcome and Blessing from Leonard Wabasha, Vice Chairman Keith Anderson, and Hon. Henry Buffalo

Introductions

Judge Issam Yahyaoui and his host Ms. Kim Paray were in attendance. Judge Yahyaoui is visiting from the Tunis Court of First Instance in Tunisia. He's currently participating in the International Fellows program at the Humphrey Institute at the University of Minnesota. He has worked in the Family, Civil, and Criminal Divisions but now leads the Commercial Litigation Division.

Overview of agenda and identification of any additional agenda items

Forum observed a moment of silence for Judge Wynn's husband, DNR Officer Eugene Wynn who died last week while providing services to an individual in need, and Chairman Norman Deschampe (Judge Deschampe's father) who passed away in February.

Review and Approve October 2018 and December 2018 meeting summaries

Approved without change.

New members

- Judge David Piper replacing Judge Peter Cahill as 4th District representative
- Judge Dwayne Knutsen replacing Judge Randy Slieter as 8th District representative
- Judge Korey Wahwassuck replacing Judge David Harrington as 9th District representative

Probation Revocation Report follow up

Judge Kulick wrote a letter to the Lt. Governor (the Sentencing Guidelines Commission serves at the pleasure of the Governor) expressing interest in and concern about data captured in the SGC Probation Revocation Report. In particular, Judge Kulick raised concern with the stark differences in probation revocation rates for native offenders vs. offenders of

other racial backgrounds and the extremely high rate of revocation for native women. The letter urged examination of the causes for these discrepancies. An aide followed up with Judge Kulick said the letter would be presented to members of commission. Judge Kulick will follow up in a few weeks if she has not heard back from the commission or aide.

Formation of a subcommittee on this topic was discussed at a past meeting and is in early stages of formation. If anyone is interested in being part of this subcommittee, please contact Melia Garza.

Human Trafficking and Sexual Exploitation

Judge Ryan shared resource called [Creating a Human Trafficking Strategic Plan to Protect and Heal Native Children and Youth](#) and talked about the importance of education about using the resources rather than jumping into assumptions based on quick identification of risk factors.

Local training and national training options on this topic are available. Judge Ryan and several other members of the Forum attended the [National Judicial Institute on Domestic Child Sex Trafficking](#) offered by the National Council of Juvenile and Family Court Judges. Judges Wahwassuck and Fineday are planning to offer a regional training to share information learned at the conference. Training will be hosted by Leech Lake sometime this year.

Forum members discussed how judges could identify whether trafficking is a factor in the lives of the people who appear in court. Judge Ryan shared that there are a few judges around the state who have received additional training who are very skilled at getting information in a helpful and appropriate manner. Some people who appear in court won't be able to put into words what they are experiencing; they may not identify it as trafficking. A recommendation would be to avoid making assumptions but instead make appropriate referrals to social services. Judges are encouraged to build familiarity with resources available in our communities. One of the best allies that courts have is the local sexual assault services program. These programs are aware of the other resources available locally. Judges can help connect people to these programs and the program service providers can help make the additional connections as appropriate.

Victimization rates of native populations is higher than other cultures. MN Safe Harbor law has increased resources available around the state for trafficked youth and there's also been an increase in grant funding available. Typically grants look for strong partnerships across agencies.

The Fond du Lac Band of Chippewa received grant funding for Tribes United against Sex Trafficking (TRUST). All tribes in Minnesota are represented on this committee. The committee is in the process of reviewing a trafficking checklist created and used in Hennepin County for any additions from a tribal perspective. The group is also looking at opportunities for future training and grants. A social worker here at SMSC used to be regional navigator in the Duluth area and would be a resource for this group. The former ombudsperson for tribes is also a resource at SMSC.

Judge David Piper will provide the checklist used in Hennepin County and gather information about how the checklist is being used and how it's working. This can be an agenda item for a future meeting.

Other topics to consider:

- Boys involved in trafficking and additional stigma that may be present for these victims. LGBT youth. Are there any specific resources?
- Challenge of navigating scenario where victims are being used to recruit others. What is the best way to address public safety needs while still recognizing victimization?
- Awareness of potential victimization in a wide range of scenarios. Examples: Commitments (people leave where they are supposed to be and can become victims of trafficking or sexual exploitation), bail hearings (who is bailing this person out? Is it an older male? Is it a woman who has been victimized but has now been put into a role of recruiting other victims?), etc.

ICWA updates and practices

Judge Ryan- State court, through CJI, has put forth commitment to ensure ICWA training is provided throughout state. Training is open to CJI team members and child protection stakeholders including judges, court administration, law clerks, county attorneys, social workers, attorneys for parents and children, guardians ad litem, and tribal representatives.

Upcoming training dates/locations:

- Thursday, August 1, 2019 – Dakota County
- Friday, August 30, 2019 – Kandiyohi County
- Friday, November 8, 2019 – Anoka County
- Friday, November 22, 2019 – Redwood County

Challenges can arise when kids are involved with both tribal court and state court systems. For example, having a CHIPS case in tribal court and a juvenile delinquency case in state court. Data privacy concerns may prevent timely information sharing and result in undesirable outcomes for kids. Families may experience a high number of hearings in separate systems as well as disjointed practices or decisions. Instead, adopting a family center model or establishing more open coordination and agreements could streamline this process and improve the experience for kids and their families. Judge Royal talked about the Wellness Court in Red Lake which has been in place for about 2 years. The Wellness Court was developed with grant funds. It's labor intensive work and isn't necessarily feasible for high volumes of cases but it can be done with small numbers of cases and they are seeing successes.

Forum agreed that the topic of crossover kids and coordination around these cases should be ongoing agenda item. Even without full Wellness Court model, coordination can still occur to make a difference in these cases. A starting point could be with truancy cases and finding a way to get the whole system to look at all angles and work together to address issues. This model is being used in a court in California.

Judge Scheffler talked about a process where there is an option to wipe the slate clean if the court participant shows up and meaningfully engages with the process. The family is involved and resources are immediately made available.

ICWA will be an agenda item for future Forum meetings.

Training updates and opportunities

Upcoming Trainings

- [2019 NICWA Training Institute](#): Understanding ICWA, Positive Indian Parenting, Qualified Expert Witness, June 18 - 20, 2019, Portland, OR

- [2019 NICWA Training Institute](#): In-Home Services, Understanding ICWA, September 10 – 12, 2019, Minneapolis, MN
- [2019 NICWA Training Institute](#): Understanding ICWA, Positive Indian Parenting, Working With Substance-Abusing Families, November 12 - 14, 2019, Portland, OR

See information about local ICWA trainings in previous section.

Summary of Trainings Attended/Presented

Judge Scheffler and Judge Knutsen presented at Southwest State about the two court systems. The public had many questions about both court systems and how the two courts work together. Forum discussed this as a potential model to promote/encourage. This could also be a breakout session at the Annual Conference of Judges or the Bridging the Gap program which immediately precedes the Annual Conference and is attended by judges who are in their first two years on the bench.

Judge Wahwassuck spoke about panel presentations with Judge Ryan on ICWA.

Judges Ryan and Buffalo will be taking part in a conversation about tribal courts on the District Court Show produced by Minnesota's 10th Judicial District. Here is a link to the episode: <http://reflect-qctv.cablecast.tv/vod/9291-District-Court-117-FIXED-Leslie-5-3-2019-High-v3.mp4>

Other training ideas/needs:

- National American Indian Court Judges Association (NAICJA) is holding their 2019 Annual Conference at Mystic Lake October 15-18. More information is available here: <http://www.naicja.org/NAICJA-Conference>. NAICJA partners with NCJFCJ and there are often good opportunities to join both organizations.
- Forum discussed possibility of proposing training topic for the 2019 Annual Conference of Judges held by the Minnesota Judicial Branch. There are many new judges that may not have previously received training on tribal law, tribal court, or cross-jurisdiction related topics. The conference planning committee typically requests proposals by June of each year for the upcoming December conference.
- Continued training on trafficking
- Continued training on ICWA
- Training for law enforcement and first responders on mental health issues, trauma, tribal issues, and the importance of how first responders approach those cases. There have also been important revisions to Rule 10 that should be included in training to law enforcement so they are informed about enforcing orders issued by other jurisdictions. Judge Wahwassuck volunteered to chair a subcommittee to work on connections with law enforcement to discuss training. Judge Megan Treuer also expressed interest. If other Forum members are interested in joining this effort, they should contact Judge Wahwassuck.
- ICWA topics for the Minnesota County Attorney's Association (MCAA). Prosecutors typically have their "go to" contacts on ICWA and while these people are knowledgeable, they may not be reaching out to any tribal folks. MCAA has an ICWA committee that would be a good starting point for these conversations.
- Building and improving relationships
- Judge Wahwassuck suggested seeking opportunities to imbed content into trainings that are already scheduled. There is often tough competition for training time and limited capacity to host or organize new trainings. A good option may be to find ways to influence smaller pieces of the training that's already happening. One possibility

may be through work with the Committee for Equality and Justice (CEJ) and the district Equal Justice Committees (EJCs).

Review priorities established by Forum for 2018-2019



Summary of
Discussion Re Prioriti

Priorities were developed and voted on at Forum meeting in late 2017. Forum discussed whether additional priorities should be considered.

Several ideas around new priorities emerged:

- Increasing Forum participation by state courts.
 - Some districts have multiple counties that border tribal jurisdictions so it would be beneficial for more than the judge who officially represents the district to attend. Other state court judges should be consistently encouraged to attend if approved by their district Chief Judge. As a way to encourage participation, continue to host meetings in varying locations around the state.
- Identifying resources for tribal courts and state courts. What programs exist in each of our communities and where could we work together?
- Continue to examine points of cross-over between systems.
- Continued examination of the Probation Revocation Report data. This is also a priority of the Equal Justice Committee.
 - It is important to consider the impact on children when probation is revoked for a parent or caregiver. Beltrami County worked with their probation department to do a deep dive to study reasons for revocations; Itasca will be following suit. In Beltrami, a high number of people are saying “I want to execute my sentence,” to “just get it over with.”
 - Judge Kulick mentioned a study out of Hawaii on probation terms. The study suggests there’s a certain probation duration after which there’s no additional gain. The longer people are on probation, the more likely they are to become overwhelmed by the duration and make mistakes. How do we be sure we aren’t setting people up for failure? How do we balance this with public safety?
- Increasing knowledge about tribal courts and effective collaboration. Look for opportunities to offer training to newer judges so they are informed and see the importance of collaboration.

Upcoming opportunity: California tribal court judges coming to MN for event sponsored by Hennepin County Library.

- Screening of *Tribal Justice* with visit from Director Anne Makepeace and Tribal Justices Abby Abinanti and Claudette White
Hennepin County Central Library (Minneapolis)
Thursday, October 24
6:30-9:00pm

A small group formed to coordinate around this visit. The group is exploring the possibility of having the California Tribal Court judges visit Red Lake and move the Forum meeting date to coincide with this visit.

Tribal Justice Documentary Screening, Part I

Following the screening, Forum members discussed the importance of coordination and collaboration between tribal and state courts. There's value in continually seeking ways for the courts to work together. Examples of coordination included to issue orders with conditions to follow any orders issued by the other jurisdiction, state courts deferring to tribal courts when appropriate, both courts asking about the existence of cases in other jurisdictions, and letting the parties know that the courts are in communication. There doesn't need to be a formal structure in place to do effective joint jurisdiction work.

Future Topics

- Visit from Proof Alliance (formerly known as MN Organization for Fetal Alcohol Syndrome)
- Visit from Jill Esch, Native American ombudsperson for the State of Minnesota

Proposed Future Meeting Dates

- July 26, 2019 – hosted by state courts, TBD
- September 27, 2019 – hosted by tribal courts, tentatively at Red Lake. Date may change to coincide with visit from Judges Abinanti and White in October.
- December 5, 2019 – breakfast meeting at Annual Conference of Judges

Adjourn