

## The New Mexico Tribal-State Judicial Consortium & The Cross-Court Cultural Exchange

The Tribal-State Judicial Consortium grew out of the efforts of the New Mexico Court Improvement Project, a Supreme Court project to improve the judicial handling of child abuse and neglect cases. In 1997, the Court Improvement Project Task Force created the Tribal-State Relations Committee, which coordinated three regional "Tribal-State Judicial Forums." The purpose of these forums was to encourage communication and understanding between tribal and state courts, specifically looking at issues of full faith and credit, comity, jurisdiction, and the best interest of the child as they pertain to child abuse and neglect, juvenile justice and delinquency, custody and divorce, child support, and domestic violence.

In 1998, as a result of these forums and at the request of the Task Force, the Chief Justice of the New Mexico Supreme Court and the President of the Colorado-New Mexico Indian Court Judges Association appointed representatives to a new Tribal-State Judicial Consortium. The Consortium was established to address the needs identified at the Regional Forums and elsewhere. The Consortium's mission, endorsed by the Supreme Court and the Colorado-New Mexico Indian Court Judges Association, is:

To address questions of jurisdiction and sovereignty, focusing at first in the areas of domestic violence, domestic relations and custody, child support, child abuse and neglect, and juvenile justice, and perhaps expanding into other areas of law in the future.

Two of the original goals of the Tribal-State Judicial Consortium were "to facilitate communication between State and Tribal judicial systems" and "to improve awareness and develop information...about the different judicial and legal systems in place in the State and in the various Tribes and Pueblos." In order to further those goals, the Consortium conducted the first Cross-Court Cultural Exchange in March of 2000. The Exchange was co-hosted by the Crownpoint District Court of the Navajo Nation Judicial Branch and the State's 11<sup>th</sup> Judicial District Court. Approximately 80 representatives of state and tribal courts and social services attended.

The second annual Cross-Court Cultural Exchange, co-hosted by the Isleta and Laguna Pueblo Courts and the State's 2<sup>nd</sup> Judicial District Court, was held in October 2001. Approximately 100 participants, representing most New Mexico tribes and pueblos, many state and federal agencies, and several state courts, attended.

Feedback from participants at both Exchanges was extremely positive, and the Tribal-State Judicial Consortium made a commitment to continue this event. The third annual Exchange was co-hosted by Tesuque, San Juan, and Santa Clara Pueblos, the 1<sup>st</sup> Judicial District Court, and the New Mexico Supreme Court and Court of Appeals, with the participation of the U.S. District Court. This Exchange was held on October 2-4, 2003 and also included visiting the Nambe Pueblo for their Feast Day, Crafts Fair, and Indian Dances. More than 100 participants attended this Exchange.

At the request of Chief Justice Maes of the New Mexico Supreme Court, the Consortium has begun planning for a Four-Corners Tribal-State Judicial Exchange to be held October 29-31, 2003. This event will be hosted by the Supreme Courts of the four states, as well as the Colorado-New Mexico Indian Court Judges Association and the Supreme Court of the Navajo Nation. Like the annual Cross-Court Cultural Exchanges, the Four Corners Tribal-State Judicial Exchange will bring together tribal, state, and federal judges; social service agency staff, law enforcement personnel, service providers and others to address questions of mutual concern, including issues of full faith and credit and recognition and enforcement of protection orders. The emphasis of the Exchange is on child and family issues, including family violence and violence against women.

# **Accomplishments of the Tribal-State Judicial Consortium**

## **In the area of enhancing collaboration & communication between state and tribal courts:**

- A Cross-Court Cultural Exchange was held on March 23-24, 2000 in the northwest region of the state and included the Navajo District Court in Crownpoint and the State District Court in McKinley County. Judges, attorneys, child welfare workers, legislators, law enforcement officers, and other child advocates attended.
- A second Cross-Court Cultural Exchange was held on October 25-26, 2001 in the central region of the state and included the Isleta, Acoma, and Laguna Pueblos and the State District Courts in Bernalillo and Sandoval Counties.
- A third Exchange was held on October 2-4, 2002 in the northern/central region of the state and included the Tesuque, San Juan, and Santa Clara Pueblos, the 1<sup>st</sup> Judicial District Court, and the New Mexico Supreme Court and Court of Appeals, with the participation of the U.S. District Court. This Exchange also included visiting the Nambe Pueblo for their Feast Day, Crafts Fair, and Indian dancing.
- As a result of these Exchanges, a workshop was developed and conducted on the topic of Cross-Deputization of Law Enforcement Officers. This included the development of agreements and training of officers representing the state and tribal agencies, allowing officers to have jurisdiction on each other's land.
- Also, as a result of these Exchanges, the Navajo Drug Court collaborated with the Bernalillo County Metropolitan Court to hear from treatment providers and other resources used in drug court programs.
- The Full Faith and Credit Project, which works with the Navajos and the 19 pueblos around issues of domestic violence, held a meeting to discuss some of the issues raised at workshops held at the Cross-Court Exchanges.
- The State Supreme Court invited the Crownpoint Tribal Court Judges to observe Supreme Court and Court of Appeals hearings.

## **In the area of clarifying laws:**

- The Consortium invited Senator Tsosie and retired Representative Pederson, along with representatives from the Children, Youth and Families Department, to provide clarification of: the procedures for implementing 1999 Full Faith and Credit legislation in the area of juvenile justice; the required intergovernmental agreements; and the domestication of tribal court orders.

## **In the area of educating tribal and state agencies and judiciaries:**

- The Consortium invited representatives from the state Human Services Department, Child Enforcement Division and the Director of the Navajo Child Support Program to speak about their initiatives, the use of federal Title IV-D funding, and the creation of Joint Powers Agreements with the state agency.
- Some of the workshop topics that have been presented at the annual Cross-Court Cultural Exchanges are:
  - an overview of the Peacemaker process and its specific application in terms of children and violence;

- an overview of the organization of the Judicial Branch of the Navajo Nation, including the Peacemaker Division, and a summarization of the issues of jurisdiction as addressed in the Navajo Nation Code;
- a discussion among law enforcement representatives about problems encountered in enforcing court orders issued by another jurisdiction, including creative solutions such as cross-deputization agreements between the Navajo Nation and the McKinley County Sheriff's Department as one approach;
- a discussion of the organization of the State District Court and issues of jurisdiction as addressed in State Law and Court Rules;
- domestic violence issues: victim advocacy programs, state registry of Orders of Protection, enforcing orders from other jurisdictions;
- merging the traditional and modern justice systems: an overview of four Tribal courts
- case law from Atkinson and Hicks: implications for jurisdictional cooperation;
- innovations in child welfare: mediation, family group decision making, and kinship guardianship;
- an overview of state and county courts;
- beyond ICWA: older youth in State & Tribal custody;
- strengthening relationships: working across jurisdictional lines;
- full faith & credit and enforcement issues in child & family matters;
- child witnesses;
- a jury of one's peers: assuring Native American representation on juries; and
- jurisdictional and other issues in child support enforcement.

**In the area of developing policy & procedure:**

- In an effort to assure that Full Faith and Credit is given to court orders, the Consortium created a committee that drafted and proposed a Rule for Civil Procedure which gathered input from state and tribal judges. This proposed rule has been given to the Civil Rules Committee and is now being reviewed by the Supreme Court.

**Recommendations For Future Initiatives of the Consortium When Resources Permit:**

- fund a part-time staff attorney position to oversee legal research related to issues of jurisdiction and sovereignty;
- conduct research and data collection to identify the incidence of child abuse/neglect cases which could potentially be prosecuted criminally and which have tribal-state jurisdictional issues;
- identify policy, practice, and procedures in place in New Mexico and elsewhere for managing these multi-jurisdictional cases;
- adapt those policies, practices, protocols, agreements, etc. for use in New Mexico, developing new material as necessary and create state-specific best practice models;
- create a booklet for social service personnel, service providers, judges, attorneys, etc. that would focus on the federal Indian Child Welfare Act (ICWA) and the federal Adoption and Safe Families Act (ASFA) as they relate to abuse/neglect cases involving Native Americans on and off Indian land;

- if the tribes requested, staff could look at Tribal Code in terms of compliance with Federal Title IV-D, to optimize child support enforcement collections and explore creating intergovernmental agreements;
- if requested by the tribes, staff could work with the tribal courts on the development of standard temporary restraining orders;
- have staff develop resource information and/or a web site that could summarize the operations of the various tribal courts, including whether or not the court is a traditional court, how often the judges change over, who may practice in front of the court, and contact information;
- have staff work with the tribes to develop and deliver training, in conjunction with the Judicial Education Center, for judges and attorneys to learn about traditional courts, peacemakers, and other Indian Court issues;
- have staff facilitate cross-deputization agreements and arrange training programs; and
- have staff expand the idea of the Cross-Court Cultural Exchanges to include the Four-Corner states of New Mexico, Arizona, Utah, and Colorado.

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