

CALIFORNIA TRIBAL COURT–STATE COURT FORUM

Forum E-Update

November 2014

TRIBAL COURT–STATE
COURT FORUM

HON. RICHARD C. BLAKE
Cochair

HON. DENNIS M. PERLUSS
Cochair

Hon. Abby Abinanti
Hon. April E. Attebury
Hon. Mitchell L. Beckloff
Hon. Jerilyn L. Borack
Hon. Alex Cleghorn
Hon. Leonard P. Edwards (Ret.)

Volunteer Mentor Judge
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Mr. Olin Jones
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**NOVEMBER IS
AMERICAN INDIAN HERITAGE MONTH!**
(<http://nativeamericanheritagemonth.gov/index.html>)

It is a time to celebrate the rich and diverse cultures, traditions, and histories and to acknowledge the important contributions of Native people. The Library of Congress, National Archives and Records Administration, National Endowment for the Humanities, National Gallery of Art, National Park Service, Smithsonian Institution and United States Holocaust Memorial Museum join in paying tribute to the rich ancestry and traditions of Native Americans by posting resources.

FORUM LEGISLATIVE PROPOSALS
(To view these and past proposals, see forum home page
<http://www.courts.ca.gov/3065.htm>)

AB 1618: Tribal Access to Confidential Juvenile Court Files

which provides tribal entities and officials with access to confidential juvenile court files and records for children who are members of the tribe or eligible for membership in the tribe. By explicitly including tribes, tribal officials, and tribal entities within the exception to the confidentiality of juvenile court files, the bill will solve a conflict between federal and state law on one side, and juvenile courts on the other. Chaptered as Stats. 2014, Ch. 37, effective January 1, 2015.

SB 406 Tribal Court Civil Money Judgment Act: which simplifies and clarifies the process by which tribal court civil money judgments are recognized and enforced in California. Chaptered as Stats. 2014, Ch. 243, effective January 1, 2015. As directed by Senate Bill 406 (2014 Cal. Stat. ch. 243), the California Law Revision Commission is commencing work on a study on the recognition of tribal and foreign court judgments. To view the introductory memorandum on this topic, see: <http://www.clrc.ca.gov/pub/2014/MM14-47.pdf>. To find out more about the study, contact Kristin B. Burford, Staff Counsel, California Law Revision Commission at kburford@clrc.ca.gov, or subscribe to learn more about the study online: <http://www.clrc.ca.gov/D1200.html>.

SB 940 Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) Proposed for California: which addresses issues involving conservatorships for members of Indian tribes located in California. Chaptered as Stats. 2014, Ch. 553; some portions effective January 1, 2015 and others January 1, 2016.

We would like to learn about implementation issues relating to these new laws. If you are aware of success stories or challenges, please contact Jennifer Walter at jennifer.walter@jud.ca.gov.

JUDICIAL COUNCIL

JUDICIAL COURT OPERATIONS

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CHILDREN & THE COURTS

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Tribal/State Programs Link:

<http://www.courts.ca.gov/programs-tribal.htm>

IN THE NEWS

[American Indian Heritage](#)

KQED proudly celebrates the richness and diversity of the greater San Francisco Bay Area by commemorating November, American Indian Heritage Month. During the month of November, KQED Public TV 9 schedules a special lineup of programs focused on American Indian themes and issues. These programs are highlighted in a guide along with listings of community resources and local events

[Native American Traditional Justice Practices](#)

The U.S. Department of Justice's [Access to Justice Initiative](#) and the U.S. Department of the Interior's Bureau of Indian Affairs' [Office of Justice Services-Tribal Justice Support](#) have published an Expert Working Group Report on Native American Traditional Justice Practices. This report summarizes discussions and provides recommendations of an April 2013 expert working group that focused on the use of traditional Native American justice interventions to respond to criminal and delinquent behavior. The meeting was held in furtherance of the Tribal Law and Order Act's mandate that both Departments work with tribal court systems to develop a plan to address alternatives to incarceration. It also evidenced the Administration's commitment to tribal sovereignty by recognizing and showcasing the importance of traditional tribal custom. In recognition of the United States' support of the United Nations Declaration on the Rights of Indigenous Peoples and its provisions that support the traditions and customs of indigenous communities and Nations, the United Nations Special Rapporteur on the Rights of Indigenous Peoples delivered keynote remarks on the Declaration and its aspirations at the meeting.

[Tule River Indian Tribe Celebrates New Justice Center](#)

Porterville Recorder - November 13, 2014

The two-story building overlooks much of the reservation. It includes two courtrooms and has offices for the tribal legal department, the tribal department of planning and development, the Indian Child Welfare Act department, the workforce investment department, a youth outreach program, and the tribal fire chief.

[Native American Tribes Have the Right, but Not the Resources, to Prosecute Abusers](#)- October 16, 2014

California Health Report article by Leah Bartos

[NE: Native American Child Law Not Followed, Court Says](#)

November 16, 2014

The Nebraska Supreme Court has ruled that a Lancaster County judge should have applied to a child custody case a federal law that seeks to prevent the removal of Native American children from their homes.

These programs are supported with funds from the Office on Violence Against Women, U.S. Department of Justice that are administered through the Governor's Office of Emergency Services (CalOES), the U.S. Department of Health and Human Services, Court Improvement Program, and the California Department of Social Services.

[The Advisory Committee of the Attorney General's Task Force on American Indian and Alaska Native Children Exposed to Violence Report and Recommendations](#) November, 2014

Through hearings and Listening Sessions over the course of 2013–14, the Attorney General's Advisory Committee on American Indian and Alaska Native (AI/AN) Children Exposed to Violence examined the current epidemic of violence and evaluated suggestions for preventing violence and alleviating its impact on AI/AN children. This report presents the Advisory Committee's policy recommendations that are intended to serve as a blueprint for preventing AI/AN children's exposure to violence and for mitigating the negative effects experienced by AI/AN children exposed to violence across the United States and throughout Indian country. The primary focus of the report is the thirty-one wide-ranging findings and recommendations that emerged from hearings and Listening Sessions. The Advisory Committee also examines the reports of the Attorney General's National Task Force on Children Exposed to Violence in 2012 and the Indian Law and Order Commission (ILOC) in 2013, and incorporates some of the recommendations from these important reports that most strongly impact AI/AN children exposed to violence.

[The Shrinking Sovereign: Tribal Adjudicatory Jurisdiction Over Nonmembers in Civil Cases](#)

Columbia Law Review Journal article by M. Gatsby Miller

Tribal jurisdiction over nonmembers is limited to two narrow areas: consensual economic relationships between tribes and nonmembers, and nonmember activity that threatens tribal integrity. Even within these two narrow fields, the Supreme Court has stated that tribal adjudicatory power over nonmembers—the authority to decide legal rights of individuals, usually in a trial-like setting—cannot exceed the tribe's legislative power over nonmembers—the power to regulate nonmember activity through the enactment of legislation and regulation. This raises a question that the Court has acknowledged but never answered: whether a tribe may exercise adjudicatory authority over nonmembers as a result of its legislative power. More simply put, is a tribe's adjudicatory jurisdiction over nonmembers less than, or equal to, its legislative power? This Note argues that tribes should have concurrent regulatory and adjudicatory jurisdiction over nonmembers in disputes based on consensual economic relationships, but tribal regulation concerning tribal integrity should be subject to greater federal court oversight. Tribal courts should have presumptive jurisdiction to enforce tribal integrity regulations; however, proof that the tribal court is unfair or inaccessible to nonmembers should permit federal courts to intervene. By drawing on analogous principles in administrative law, civil procedure, and the law of federal courts, this Note provides a workable solution that is consistent with existing Supreme Court tribal law jurisprudence, that conforms with the normative values shaping jurisdiction in other contexts, and that also respects tribal sovereignty.

[Native American Song Follows Senate Keystone XL Vote, Singer Arrested](#)

Indian Country Today Media Network, 11/19/14

[I Love Ancestry: Responsibility, Honor and Truth](#)

Indian Country Today Media, article by Julianne Jennings, 11/16/14

[Thanksgiving vs. the National Day of Mourning](#)

Indian Country Today, article by Peter d'Errico, 11/13/14

[Federal Government Must Protect Native Children From Violence](#)

Indian Country Today, article by Byron L. Dorgan and Joanne Shenandoah, Ph.D., 11/18/14

EDUCATIONAL OPPORTUNITIES

New Website Launched—CJER Online

CJER Online consolidates all CJER websites into a single site for easy access to distance education, calendars, and registration. The new site is more accessible, user-friendly, and allows users to easily search CJER publications and distance education materials or register for programs.

The California Judicial Council's Center for Judiciary Education and Research (CJER) and Information Technology Services Office (ITSO) have been working to redesign the education portions of the Court

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Extranet and integrate them with the other CJER websites--staff education website, the programs calendar, and the course registration site--to create a single site. The concept was to create a user-friendly, integrated website for judicial education. <http://www2.courtinfo.ca.gov/cjer/cjeronline.htm>

Court Extranet:

The State Judicial Branch has a Court Extranet with educational and other resources for state court judges and tribal court judges. This website contains information relevant to all levels of judicial branch personnel and includes resources designed to meet education, facilities, financial, human resources, legal, special court projects, technology, and other informational needs. It also offers both current news and archived resources. For more information, please contact Carolyn Bernabe at 415-865-7556 or carolynn.bernabe@jud.ca.gov.

California Dependency Online Guide (CalDOG):

The State Judicial Branch has a Dependency Online Guide with dependency-related case law, legal materials, articles and other resources to California attorneys, judicial officers, social workers, tribal representatives, Court Appointed Special Advocates, and other child welfare professionals. This website contains up-to-date information for professionals working in child welfare, regardless of the size of the county, the employer, or the availability of legal and other resources in the local area. For more information, view the [CalDOG postcard](#). Subscriptions are free and available to professionals working in the field of juvenile dependency. [Log in or subscribe here](#).

MORE EDUCATIONAL OPPORTUNITIES

Coordinating Council To Address Recommendations of Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence- November 18, 2014

On November 18, 2014, from 10:30 a.m. to 12:00 noon ET, the [Coordinating Council on Juvenile Justice and Delinquency Prevention](#) will convene in Washington, DC, to discuss the final report of the Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence. Committee members will present to the Attorney General and council members their findings and recommendations to address the impact of violence on tribal youth. Attorney General Eric H. Holder, Jr., serves as the Council's Chair and OJJDP Administrator Robert L. Listenbee serves as Vice Chair. The meeting is open to the public. [Watch](#) the live Webcast. The committee was created in response to recommendations in the "Report of the Attorney General's National Task Force on Children Exposed to Violence." Read the report [online](#) or [order](#) a print copy. Learn about the Attorney General's [Defending Childhood Initiative](#). Learn about [OJJDP's programs for tribal youth](#).

National Council of Juvenile and Family Court Judges [78th Annual Conference in Austin, Texas, July 26-29, 2015](#)

The National Council of Juvenile and Family Court Judges (NCJFCJ) is currently accepting proposals for 60-minute workshops. Proposed topics include: child abuse and neglect, family violence, juvenile justice, trauma, custody and visitation, judicial leadership, sex trafficking of minors, implicit bias, drug courts, psychotropic medications, children testifying in court, detention alternatives, substance abuse, and the adolescent brain. [Register for the 78th Annual Conference](#): Early registration fees are now available until June 26, 2015. NCJFCJ Members can enjoy a [discounted member rate](#) to attend.

GRANT OPPORTUNITIES

Centers of Excellence on Environmental Health Disparities Research

Deadline: January 9, 2015

This Funding Opportunity Announcement (FOA) encourages grant applications to support Centers of Excellence on Environmental Health Disparities Research to stimulate basic and applied research on environmental health disparities. The proposed research is expected to develop innovative approaches to understand environmentally-driven health disparities and improve access to healthy environments for

vulnerable populations and communities. The proposed Centers are expected to support research efforts, mentoring, research translation and information dissemination.

<http://grants.nih.gov/grants/guide/rfa-files/RFA-ES-14-010.html>

Media Projects

Deadline: January 14, 2015

NEH's Division of Public Programs supports activities that engage millions of Americans in understanding significant humanities works and ideas. At the center of every NEH-funded public humanities project is a core set of humanities ideas developed by scholars, matched to imaginative formats that bring those ideas to life for people of all ages and all walks of life. Projects must be analytical and deeply grounded in humanities scholarship in a discipline such as history, religion, anthropology, jurisprudence, or art history. NEH is a national funding agency, so the projects we support must demonstrate the potential to attract a broad, general audience. We welcome humanities projects tailored to particular groups, such as families, youth (including K-12 students), teachers, seniors, at-risk communities, and veterans, but they should also strive to cultivate a more inclusive audience. Media Projects grants support the following formats: • film and television projects; and • radio projects. Film and television projects may be single programs or a series addressing significant figures, events, or ideas. Programs must be intended for national distribution. The Division of Public Programs welcomes projects ranging in length from short-form to broadcast-length video. Radio projects may involve single programs, limited series, or segments within an ongoing program. They may also develop new humanities content to augment existing radio programming or add greater historical background or humanities analysis to the subjects of existing programs. They may be intended for regional or national distribution. <http://www.neh.gov/grants/mp>