

Working Collaboratively: New Mexico's Tribal-State Judicial Consortium

Bringing the community into court improvement (CIP) efforts helps build support for CIP projects and gives them legitimacy in the community that they might otherwise lack. New Mexico's state CIP project recognized that it could improve services to children and families by collaborating with one key community member: the 22 sovereign nations—19 pueblos, two Apache nations and one Navajo nation—within the state. New Mexico is home to more than 190,000 American Indians, who make up 10.5 percent of the state's population.*

The Tribal-State Judicial Consortium is an offshoot of New Mexico's state court improvement project. The idea for the Consortium grew out of a series of Tribal-State Judicial Forums held in 1997 and 1998. From those forums, the court improvement project learned that a number of issues affecting children and families were of mutual concern to both state and tribal courts. Participants in the forums expressed a desire to jointly explore full faith and credit, comity, jurisdiction, and the best interests of children and families as they pertain to juvenile justice and delinquency, custody and divorce, child abuse and neglect, and domestic violence.

The Consortium is a collaborative effort between the New Mexico Supreme Court and the New Mexico & Colorado Indian Court Judges Association (NM&CICJA). Its primary mission was articulated at the first meeting in 1998: “[t]o address questions of jurisdiction and sovereignty, focusing at first in the areas of domestic violence, domestic relations and custody, child abuse and neglect, and juvenile justice, and perhaps expanding into other areas of law.” The Consortium's appointing authorities—then Chief Justice Gene Franchini of the New Mexico Supreme Court and Chief Judge Roman Duran of the Pueblo of Tesuque Tribal Court and president of the NM&CICJA—affirmed the mission and called it “a positive step in the right direction.”

The Consortium does more than simply address legal issues. It provides a forum for judges and other participants to learn about each other's courts, laws, customs and values. And learning about each other “helps ensure more efficient and more culturally relevant interactions and services while respecting the sovereignty of the Indian Nations...[and] makes it easier for other State and Tribal public systems and services to work together and coordinate their services particularly in those areas where children and families are involved,” according to Robert J. Klein, the Project Manager for the Administrative Office of the Courts. Underlying all of the Consortium's work is the belief that issues can be resolved more effectively through relationships than through rules and laws.

To carry out its mission, the Consortium has established a number of goals:

- Improving awareness of and developing information, education and training about the different judicial and legal systems in place in the state and the various tribes and pueblos;
- Encouraging the recognition and enforcement of state and tribal court orders;
- Facilitating communication between state and tribal judicial systems; and
- Creating a mechanism for resolving state and tribal issues and disagreements.

The Consortium is striving to achieve these goals using various strategies. It has brought together state legislators and representatives of various state agencies to discuss a range of issues, from interpretation of law to program operations. It has held two Cross-Court Cultural Exchanges, co-sponsored by state and tribal courts. A third Exchange is scheduled for Fall 2002.

The Cross-Court Cultural Exchanges are designed to give participants an opportunity to meet each other and see each others' courts, learn about how cultural influences affect court policy and procedure, explore the different programs offered by the courts, and discuss what each court needs to process cases involving children and families and to acknowledge the orders of other courts.

The Consortium is currently working with state and tribal courts and agencies in Utah, Arizona and Colorado to plan a Four Corners States Cross-Court Exchange in 2003. This meeting will bring together judges, court personnel, law enforcement, social services agency staff, probation and parole officers, and anyone else interested in working together to benefit children and families.

Bringing community members together helps develop relationships that create support for the on-going work of the Consortium. Although the Consortium's membership is made up solely of judges (seven state judges and seven tribal court judges), it reaches out to the wider community as well. State legislators, attorneys, agency directors from Native American agencies and state child welfare agencies, law enforcement representatives—just about anyone who shows an interest in the Consortium's efforts—are invited to and attend meetings. In fact, the involvement of one state legislator, Senator Leonard Tsosie, a Navajo from Crownpoint, New Mexico, in the first Cross-Court Cultural Exchange led directly to his introduction of a bill to fund the Consortium in the coming fiscal year.

Other communities interested in using the consortium structure to work collaboratively on issues affecting children and families can learn much from the experience of the Tribal-State Judicial Consortium. The Consortium found that many of the obstacles it encountered in establishing itself were related to the very issues that motivated the participants to create this structure in the first place—a lack of information and understanding.

For such an effort to succeed, participants must be willing to address their own biases about particular types of judicial and legal systems and be able to confront other value systems directly but in a respectful manner. Most importantly, the consortium should include the broadest possible representation of the various interests involved.

Just as one sovereign tribe cannot speak for another, social service providers, attorneys and community-based agencies all have unique perspectives even when they focus on the same issues. But when the various actors can come together, overcome their mistrust and work collaboratively, amazing strides can be made to protect and support children and families.

— Leigh Goodmark, Esq.

Special thanks to Robert J. Klein for his assistance with this article. For more information on New Mexico's Tribal-State Judicial Consortium, contact Robert Klein at (505) 827-4808 or aocrjk@nmcourts.com.

Note

* Ogunwole, Stella U., *The American Indian and Alaska Native Population: 2000* (Washington, DC: United States Census Bureau 2002).

Court Improvement Funding Extended!

On January 17, 2002, the President signed into law the Promoting Safe and Stable Families Amendments of 2001, Pub. L. No. 107-133, authorizing extension of the Safe and Stable Families Program, Title IV-B, Part 2 of the Social Security Act. The law extends the \$10 million per year set-aside for the court improvement program (CIP), administered by the highest court in each state, through federal fiscal year 2006.

A separate appropriations bill signed into law earlier in January created an additional set-aside for court improvement of 3.3 percent of discretionary appropriations for the Safe and Stable Families Program. This added set-aside provides \$2.31 million for court improvement for FY 2002 for a total of \$12.31 million.

Passage of these laws allows CIP projects across the country to continue to improve how their state courts handle child abuse and neglect cases and to move children into permanent and safe homes as quickly as possible.

For Your Bookshelf

Making Sense of the ASFA Regulations: A Roadmap for Effective Implementation. Produced by the Center's National Child Welfare Resource Center on Legal and Judicial Issues, a program of the Children's Bureau, this book is an issue-by-issue analysis of the regulations promulgated by the US Department of Health and Human Services in 2000 to help states and local jurisdictions implement Titles IV-B and IV-E of the Social Security Act, as amended by the Adoption and Safe Families Act.

The book addresses 20 topics, including reasonable efforts findings, judicial orders specifying a child's placement, foster and adoptive home safety requirements, permanency hearings, termination of parental rights, compliance with the Multi-Ethnic Placement Act and others. An appendix discusses the enforceability of ASFA and the regulations in court.

Available for \$14.95 from the ABA Customer Service Center (1-800-285-2221). Order # 549-0295.

Court Improvement Progress Report 2001. This 2001 update on the efforts states are making to reform and improve their child abuse and neglect courts provides a national summary detailing projects throughout the country in each of the major areas of court performance and individual state summaries detailing the specific activities and progress of each state court system. It also includes a state contact list for readers who want more information as well as materials and publications available from each state project. Areas of focus include:

- ◆ Implementation projects
- ◆ Hearing quality and depth
- ◆ Legal representation of parties
- ◆ Timeliness of decisions
- ◆ Treatment of parties
- ◆ Quality and professionalism of the judiciary
- ◆ Court staffing
- ◆ Technology
- ◆ Training and education
- ◆ Legislation and court rules
- ◆ Community collaboration
- ◆ Evaluation
- ◆ Overall strategies and barriers and
- ◆ Impact of the court improvement project.

Available for \$12.95 from the ABA Customer Service Center (1-800-285-2221). Order # 549-0311.

Keeping Kids Out of the System: Creative Legal Practice as a Community Child Protection Strategy. Produced through a grant from the Edna McConnell Clark Foundation, this book by Leigh Goodmark addresses cases in which early intervention by legal service providers and allied agencies can keep kids out of the child protection system. By catching problems early, children have a better chance of staying safely with their families.

The book describes the specific work of legal services providers whose clients include families affected by HIV, parents with mental health or substance abuse issues, or families needing assistance with income maintenance or benefits. By providing timely, effective legal services, the featured programs help prevent unnecessary interventions by the child welfare system. The book also provides a checklist for change to help increase collaboration across systems.

Available for \$25.00 from the ABA Customer Service Center (1-800-285-2221). Order # 549-0310.