

# CALIFORNIA TRIBAL COURT–STATE COURT FORUM

## Forum E-Update

October 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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Hon. Michael Golden  
Hon. Cynthia Gomez  
Mr. Olin Jones  
Hon. Suzanne N. Kingsbury  
Hon. William Kockenmeister  
Hon. Anthony Lee  
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### 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.

**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](mailto:jennifer.walter@jud.ca.gov).*

### OTHER LEGISLATION IN THE NEWS

#### **SB 1460 Committee on Human Services. Child Welfare:**

Chaptered on September 29, 2014. Among the provisions are several related to tribal rights and ICWA compliance. They are:

- Section 6 – adding section 11105.08 to the Penal Code which authorized a tribal child welfare agency to request state and federal level summary criminal history information from the Department of Justice for the purpose of approving a tribal home for the placement of an Indian child into foster or adoptive care;
- Section 8 – amending section 305.5 of the Welfare and Institutions code to add subsection (g):  
(g) when an Indian child is transferred from a county juvenile court to an Indian tribe pursuant to subdivision (a), (b), or (f), the county shall, pursuant to Section 827.15, release the child case file to the tribe having jurisdiction.

# CALIFORNIA TRIBAL COURT-STATE COURT FORUM

## JUDICIAL COUNCIL

### JUDICIAL COURT OPERATIONS SERVICES DIVISION

CENTER FOR FAMILIES,  
CHILDREN & THE COURTS  
455 Golden Gate Avenue  
San Francisco, California 94102

#### Tribal/State Programs Staff:

Vida Castaneda, Court Services  
Analyst,  
[vida.castaneda@jud.ca.gov](mailto:vida.castaneda@jud.ca.gov) or  
415-865-7874

Ann Gilmour, Attorney,  
[ann.gilmour@jud.ca.gov](mailto:ann.gilmour@jud.ca.gov) or  
415-865-4207

Carolynn Bernabe, Senior  
Administrative Coordinator,  
[carolynn.bernabe@jud.ca.gov](mailto:carolynn.bernabe@jud.ca.gov) or  
415-865-7556

Jenny Walter, Supervising Attorney,  
[jennifer.walter@jud.ca.gov](mailto:jennifer.walter@jud.ca.gov) or  
415-865-7687

Tribal/State Programs Link:  
<http://www.courts.ca.gov/programs-tribal.htm>

- Section 10 – which amends Section 361.4 of the Welfare and Institutions Code concerning requests by a tribe to exempt a crime to allow placement of a child into a tribally designated home;
- Section 12 adding section 381 to the Welfare and Institutions Code concerning procedures and documentation when a transfer is made from a juvenile court of a county to a tribe pursuant to Section 305.5;
- Section 14 which adds section 827.15 to the Welfare and Institutions Code concerning transfer of a child case file when a case is transferred from a juvenile court of a county to a tribe pursuant to section 305.5;
- Section 15 which adds section 10553.12 to the Welfare and Institutions Code concerning tribal authority to approve foster and adoptive homes under ICWA and receive criminal background information to facilitate the approval of those homes.

## IN THE NEWS

### The Tribal Supreme Court Project

To learn about federal Indian law cases currently before the United States Supreme Court, [click here](#).

The Tribal Supreme Court Project is part of the Tribal Sovereignty Protection Initiative and is staffed by the Native American Rights Fund (NARF) and the National Congress of American Indians (NCAI). The project was formed in 2001 in response to a series of Supreme Court cases that negatively affected tribal sovereignty. The purpose of the project is to promote greater coordination and to improve strategy on litigation that may affect the rights of all Indian tribes. To learn more about the project and to read past publications, [click here](#).

### [Native Village of Tununak v. State of Alaska](#)

In 2008, when the Alaska Native child was four months old, the state took custody and she was put in foster care with a non-Native family in Anchorage. The baby's maternal grandmother asked that the child be placed with her if the parents did not reunify. The child's tribe and grandmother did not object to the child remaining with the non-native foster parents while the parents attempted to reunify. After the mother's parental rights were terminated, the foster parents' petition for adoption of Baby Dawn was approved in 2012. The baby's grandmother had testified she wanted custody, but didn't file an adoption petition. In a decision several days before the U.S. Supreme Court decision in the Baby Veronica case, the Alaska Supreme Court held the state had failed to comply with the placement preferences of ICWA and ordered the child placed with the native grandmother.

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.

Following the release of the U.S. Supreme Court decision in Baby Veronica, the Alaska Supreme reconsidered its decision and held that the placement preferences did not apply because the grandmother had not actually filed a petition to adopt:

We discern no material factual differences between the Baby Girl case and this case, so we are unable to distinguish the holding in Baby Girl. Because the Supreme Court’s holding in Baby Girl is clear and not qualified in any material way, and because it is undisputed that Elise did not “formally [seek] to adopt” Dawn in the superior court, we conclude that, as in Baby Girl, “there simply is no ‘preference’ to apply[,] [as] no alternative party that is eligible to be preferred under § 1915(a) has come forward[,]” and therefore ICWA “§ 1915(a)’s [placement] preferences are inapplicable.”<sup>27</sup> We affirm the superior court’s order granting the Smiths’ petition to adopt Dawn and vacate our remand order in Tununak I requiring the superior court to conduct further adoptive placement proceedings. We do not otherwise disturb our decision in Tununak I.

Native leaders say a Sept. 12th Alaska Supreme Court ruling in a case involving a Yup’ik child will cause higher numbers of Native children to be cut off from their families and culture. The state says the decision in Tununak vs the state of Alaska will put kids into permanent homes more quickly, and follows a U.S. Supreme Court ruling.

## 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 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](mailto: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

### [National Indigenous Women's Resource Center, Inc. Webinar:](#)

#### [Why Women Stay, Why Women Leave](#)

October 22, 2014, 1 p.m. MST

To register please click this [link](#).

This webinar will address the multitude of factors that affect the safety and well-being of women and children living with domestic violence. The presenter is Marlin Mousseau, a consultant, former advocate and batterer's treatment provider. Mr. Mousseau has worked in the field of domestic violence for over 30 years and with abuser groups for more than 18 years. Working in law enforcement on the Pine Ridge Reservation from 1977 to 1981 enhanced his involvement with the adoption of mandatory arrest policies for the tribes, cities, and county jurisdictions with which he worked. As a recovering abuser, Mr. Mousseau's journey with domestic violence has been a personal and professional one; a combination that guided his development of the Medicine Wheel approach to working with domestic violence. The approach is inspired with traditional Lakota beliefs, philosophy, and ceremony. Mr. Mousseau is an Oglala Lakota from the Pine Ridge Reservation in South Dakota and currently resides on the Oneida Reservation in Wisconsin.

### [State Bar Leadership Summit](#)

October 30-31, 2014

Judicial Council of California, San Francisco

For summit details and registration please click this [link](#).

### [14th National Indian Nations Conference-Justice for Victims of Crime Registration is Now Open](#)

December 11-13 2014

Agua Caliente Reservations, CA

## GRANT OPPORTUNITIES

### **HRSA-15-012 Service Area Competition**

**Deadline: October 22, 2014**

Health centers improve the health of the nation's underserved communities and vulnerable populations by ensuring access to comprehensive, culturally competent, quality primary health care services. Health Center Program grants support a variety of community-based and patient-directed public and private nonprofit organizations that serve an increasing number of the Nation's underserved. Individually, each health center plays an important role in the goal of ensuring access to services, and combined, they have had a critical impact on the health care status of medically underserved and vulnerable populations throughout the United States and its territories. The Health Center Program targets the nation's neediest populations and geographic areas by currently funding approximately 1,300 health centers that operate over 9,000 service delivery sites in every state, the District of Columbia, Puerto Rico, the Virgin Islands, and the Pacific Basin. In 2013, more than 21 million patients, including medically underserved and uninsured patients, received comprehensive, culturally competent, quality primary health care services through the Health Center Program. This Funding Opportunity Announcement (FOA) solicits applications for the Health Center Programs Service Area Competition (SAC). The FOA details the SAC eligibility requirements, review criteria, and awarding factors for organizations seeking a grant for operational support of an announced service area under the Health Center Program, including Community Health Center (CHC section 330(e)), Migrant Health Center (MHC section 330(g)), Health Care for the Homeless (HCH section 330(h)), and/or Public Housing Primary Care (PHPC section 330(i)). For more information, contact [BPHCSAC@hrsa.gov](mailto:BPHCSAC@hrsa.gov) or Beth Hartmayer at (301) 595-4300.

## **FY 2015 Species Recovery Grants to Tribes**

**Deadline: November 7, 2014**

The National Marine Fisheries Service (NMFS) recognizes the unique importance of many protected species to tribes and values ongoing efforts by tribal nations to conserve and protect species under NMFS' jurisdiction. NMFS is authorized to provide Federal assistance to tribes to support conservation programs for marine and anadromous species under its jurisdiction. This assistance, provided in the form of grants, can be used to support conservation of endangered, threatened, and candidate or proposed species, as well as post-delisting monitoring of recovered species. Funded activities may include development and implementation of management plans, scientific research, and public education and outreach; proposals should address priority actions identified in an Endangered Species Act (ESA) Recovery Plan or address a NMFS-identified regional priority or need. Only federally recognized tribes and organizations of federally recognized tribes, such as the Alaska Eskimo Whaling Commission, that have delegated authority to represent a federally recognized tribe on matters relating to ESA listed, candidate, or proposed species, are eligible to apply. Proposals focusing on listed, candidate, or proposed species of Pacific salmon or steelhead will not be considered for funding under this grant program; such projects may be supported through the Pacific Coastal Salmon Recovery Fund. This document describes how to prepare and submit proposals for funding in fiscal year (FY) 2015 and how NMFS will determine which proposals will be funded; this document should be read in its entirety. Heather Coll; 1315 East-West Highway, Silver Spring MD 20910; Telephone: 301-427-8455

## **Rural Community Development Initiative**

**Deadline: November 12, 2014**

Qualified private, nonprofit and public (including tribal) intermediary organizations proposing to carry out financial and technical assistance programs will be eligible to receive the funding. The intermediary will be required to provide matching funds in an amount at least equal to the RCDI grant. The respective minimum and maximum grant amount per intermediary is \$50,000 and \$250,000. The intermediary must provide a program of financial and technical assistance to a private, nonprofit community-based housing and development organization, a low income rural community or a federally recognized tribe.

<http://www.gpo.gov/fdsys/pkg/FR-2014-08-13/pdf/2014-19132.pdf>

Shirley Stevenson Phone 202-205-9685 [Contact Email for Shirley Stevenson](#)

## **Head Start and/or Early Head Start - Imperial County, California**

**Deadline: November 24, 2014**

Through this announcement, the Administration for Children and Families solicits applications from public or private non-profit organizations, including community-based and faith-based organizations, or for-profit organizations that seek to provide a high-quality, comprehensive birth-to-five program incorporating both Head Start and Early Head Start funding, or to provide for Head Start only or Early Head Start only, to children and families residing in Imperial County, California. Funds in the amount of \$4,521,846 annually will be available to provide Head Start and/or Early Head Start program services to eligible children and their families. Interested applicants may email the OHS Operations Center at [DRS@headstartinfo.org](mailto:DRS@headstartinfo.org) for additional information. <http://www.acf.hhs.gov/grants/open/foa/view/HHS-2015-ACF-OHS-CH-R09-0894>

## **System-Level Health Services and Policy Research on Health Disparities**

**Deadline: January 20, 2015**

The purpose of this Funding Opportunity Announcement (FOA) is to solicit innovative system-level health services and policy research that can directly and demonstrably contribute to the elimination of health disparities. <http://grants.nih.gov/grants/guide/rfa-files/RFA-MD-15-001.html>

## **FY 2015 NAGPRA Grant Program**

**Deadline: March 11, 2015**

The National NAGPRA Program assists the Secretary of the Interior with some responsibilities under NAGPRA. Section 10 of NAGPRA authorizes the Secretary of the Interior to make grants to museums, Indian tribes, and Native Hawaiian organizations for the purposes of assisting in consultation, documentation, and repatriation of Native American cultural items, including human remains, funerary objects, sacred objects, and objects of cultural patrimony. [FY15 NAGPRA Grant Guidelines and Application](#)

## **Veterans Cemetery Grants**

**Deadline: July 1, 2015**

Grants are available for states, territories, and federally recognized tribal governments. This program is implemented in 38 Code of Federal Regulations Part 39. <http://www.cem.va.gov/cem/grants/>

## **FY 2015 Land Buy-Back Program for Tribal Nations**

**Deadline: September 30, 2015**

The Secretary of the Interior established the Land Buy-Back Program for Tribal Nations (Buy-Back Program, Program) to implement the land consolidation provisions of the Cobell Settlement Agreement, which provided \$1.9 billion to consolidate fractional land interests across Indian country. The Buy-Back Program allows interested individual owners to sell their land and transfer ownership of their interests to the tribe of jurisdiction. This effort will strengthen tribal sovereignty and put decision-making in the hands of the tribal government, freeing up resources that have been locked-up as land interests that have fractionated over time. The Buy-Back Program is interested in partnering with eligible tribes to gain their direct participation in land consolidation efforts on the reservations under their jurisdiction as tribes are considered uniquely qualified to perform the land consolidation activities on their reservations. Consequently, the Program intends to, whenever feasible and practical, enter into single source cooperative agreements with eligible tribes to not only to capitalize on their unique knowledge of their reservations but also to improve the overall effectiveness of the Program. Eligible tribes will be given the opportunity to apply for a cooperative agreement, if desired, prior to the implementation of the Buy-Back Program at the location under their jurisdiction.

More information is available at: <http://www.doi.gov/buybackprogram/tribes/agreements.cfm>. Tribes are encouraged to contact Program staff for more information on developing the cooperative agreement application prior to submission. PLEASE NOTE: this is a 10-year program. The expiration on this posting reflects this current opportunity, and new opportunities will be posted over the duration of the Program. In addition, given that the Cobell Settlement sharply limits overall administrative funding for the duration of the Buy-Back Program, cooperative agreement awards are not intended to directly fund long-term, multi-year programs at each location or reservation. Most awards will provide funding for no longer than 1 year, and tribes are encouraged to utilize the award amount to work with existing tribal land offices and programs. Tribes are also encouraged to work with Program staff in the development of the cooperative agreement application. <http://www.doi.gov/buybackprogram>

## **The Partners for Fish and Wildlife Program**

**Deadline: September 30, 2015**

The Partners for Fish and Wildlife (PFW) Program is a voluntary, incentive-based program that provides direct technical assistance and financial assistance in the form of cooperative agreements to private landowners to restore and conserve fish and wildlife habitat for the benefit of federal trust resources. The PFW Program is delivered through more than 250 full-time staff, active in all 50 States and territories. Partners for Fish and Wildlife Program staff coordinate with project partners, stakeholders and other Service programs to identify geographic focus areas and develop habitat conservation priorities within these focus areas. Geographic focus areas are where the PFW Program directs resources to conserve habitat for federal trust species. Project work plans are developed strategically, in coordination with partners, and with substantial involvement from Service field staff. Projects must advance our mission, promote biological diversity, and be based upon sound scientific biological principles. Program strategic plans inform the types of projects funded under this opportunity. Applicants seeking funding under this program should review the program strategic plan and also contact the regional PFWProgram office prior to submitting an application for funding. Gerri Watkins, Management Analyst [michael\\_murray@fws.gov](mailto:michael_murray@fws.gov)