

State Bar of Michigan
American Indian Law Committee
Minutes of January 27, 2006 10:00a Teleconference Meeting

Jurisdiction: Shall review issues of American Indian law, focusing on the relationship between tribal courts, state courts, and federal courts, and on the promotion of positive relationships between the lawyers of Michigan and the American Indian Community.

1. Welcome/Introductions

- a.** Present: S. Gaskell (Chair); members L. Williams Harris, J. Kinney, J. Davis, J. Keedy, K. Tierney, D. Duncan; Supreme Court Representative A. Voice; guest UDM Law School Student Elizabeth Ollgaard (member M. Mansfield advised Committee she was out-of-town and unable to attend).
- b.** A look back:
 - i.** See agenda with brief overview of past Committee initiatives.
 - ii.** Last meeting occurred April 4, 2003, at the Michigan Hall of Justice in Lansing, in conjunction with Michigan Supreme Court Justice Michael F. Cavanagh. The meeting goal was to identify areas of focus for coming months and years, as the Committee and the Supreme Court work on maintaining the state/tribal court relationship (if anyone has notes or minutes from that meeting, please provide them to S. Gaskell).
 - iii.** Past Co-Chair K. Tierney provided an historical overview of Committee and its efforts to facilitate relationships among tribal and state institutions with recognition of co-equal status; Committee role has not been to directly participate in adversarial proceedings, for example, in the form of amicus, but rather to provide a forum outside the courtroom to identify areas of conflict/unsettled issues of law and possible solutions, and then to facilitate implementation of identified solutions. Unlike the American Indian Law Section, the Committee does not have the ability to make recommendations to the SBM on pending legislation.
 - iv.** S. Gaskell was appointed Committee Chair in November of 2005, and learned shortly thereafter that no members had been appointed for the 2005-2006 term (past practice was to issue appointment letters in September), that as part of the SBM Strategic Plan a number of committees had been eliminated since 2002, and that existing committees, including the AIL Committee, remain candidates for possible elimination (it was noted that in the past the AIL Committee has periodically been considered for possible elimination). The SBM has asked the AIL Committee to make a recommendation to the SBM by May 1, 2006, as to whether it should continue and if so, whether its jurisdictional statement (see above) needs any changes. A Committee roster and appointment letters for the 2005-2006 term were issued by the SBM on Jan. 18, 2006, and the first meeting was set for a teleconference on this date (Jan. 27, 2006). With this introduction, the meeting was opened for input from members to identify areas of focus for the Committee in the coming months and years.

2. The Committee's future
 - a. Appointment of additional members for the 2005-2006 term: suggestions for possible candidates were offered with a consensus that additional members representing state institutions would bring better balance to the Committee. (S. Gaskell follow-up with SBM following the teleconference disclosed Committee membership is generally limited to 15 members and the Committee is presently at that number. See Article VI, Section 2 of SBM Bylaws).
 - b. Educational initiatives: past efforts have included activities such as input on the drafting of the MJJ's Benchbook on Domestic Violence and participation in cross-jurisdictional training on VAWA full faith and credit implementation. The Committee will explore the possibility of educational initiatives in other areas, such as family law issues involving child support and custody orders. It was noted that tribal-state forums occur annually focusing on political policy matters, and that the SBM American Indian Law Section has been involved in various educational initiatives (it was suggested that the Committee make an inquiry to the Section as to any issues the Committee can consider for its future agenda).
 - c. Interface with tribal and state institutions: Discussion of problems associated with enforcement of tribal orders in some state courts/forums related to child support, custody and guardianships. Examples included differing forms creating enforcement issues as well as guardianships among Indian families that are not formalized in a manner consistent with state court systems leading to funding difficulties within the system. Training similar to that done by the Michigan Indian Legal Services in conjunction with DHS/FIA on ICWA was mentioned as a possible solution, however, there is a need to further define the issue before efforts to identify possible solutions can be considered.
 - d. Tribal/State/Federal Judges Forum: Other states such as Wisconsin and North Dakota have held meetings involving Tribal, State, and Federal Judges with good results; the meetings provide judges with an opportunity to explore cross-jurisdictional issues and for state and federal Judges to learn about tribal courts. The Committee will explore the possibility of assisting in the development of such a meeting in Michigan in conjunction with organizations such as the Michigan Indian Judicial Institute, the Michigan Judicial Institute and others.
 - e. Michigan Court Rules: discussion of MCR 3.980, involving transfers of Indian children to tribal court in situations involving protective proceedings or certain offenses, and possible need to consider whether rule is working well and/or whether amendments are needed due to problems associated with changes in federal laws and/or procedures for emergency removals. This issue must be further defined to determine if there is work for the Committee to do in this area.
 - f. S. Gaskell closed meeting expressing view that important issues remain that fall within the existing jurisdiction of the Committee and with the support of Committee members, she will move forward to develop specific plans for 2005-2006 and beyond. Monthly teleconferences are scheduled for 10:00a on Friday Feb. 17, Mar. 24, Apr. 28 & May 26. To participate dial 1.800.270.1153 and when prompted enter 134891#. If you were unable to participate in a teleconference and would like your opinions heard, please contact Sheila at gaskellk@msn.com or 248.421.4691 or 248.541.5479.