



## **I. QUARTERLY MESSAGE FROM THE CHIEF JUSTICE**

In my last quarterly message, I had requested that the Judicial Branch be involved in discussions regarding governmental restructuring and matters pertaining to the budget.

The Judicial Branch has provided input to the Legislative and Executive Branches on these important matters and we have appreciated the opportunity to do so. It is our hope that consultation will take place in the future of our Navajo Nation government. The idea of “talking things out” is one that is unique to our government and our people. Let us continue to embrace this ideal. We may not always agree but we may begin these discussions in a courteous manner that will ultimately be more productive for all those involved.

The Judicial Branch has been called upon this quarter to assume the lead role in applying for grants that would enable the entire Navajo Nation to ensure that justice is delivered by both the Executive and Judicial Branches. For the second year, the Consolidated Tribal Assistance Solicitation requires that only one application be submitted from each tribe covering a number of funding opportunities through the Office of Justice Programs, COPS, Office of Violence Against Women, Juvenile Justice, Tribal Youth Programs, Tribal Court Assistance Programs, and Alcohol/Substance Abuse Prevention. The new requirement from the federal government took effect in FY 2010, blindsiding tribes in requiring very close coordination in the application and submission process. The Navajo Nation continues not to have a permanent coordinator for this complicated process. There is a 90 day submission period following announcement of the funding opportunity. When after 30 days, no agency was willing to take on the substantial coordination burden, the Judicial Branch initiated the application process and has strived to provide its in-house grant and project planning assistance to the Navajo Nation Division of Public Safety, Information Management Services, Department of Resource Enforcement, Environmental Protection Agency, Police Department, To’Hajiilee-Alamo Judicial District, Aneth Judicial District, Office of Navajo Women and Families, the Prosecutor’s Office, and the cross-agency stakeholders of the Navajo Nation Integrated Justice Information Sharing Project. The branch assembled an inter-agency team to assist the participating agencies and the Office of the President and Vice President has provided a great deal of assistance in the grant application process. As of this date, a single application submitted jointly by seven agencies, containing seven funding areas and a combined funding request for over \$3 million has been sent for SAS review. These grants, if funded, would provide direct services to the Navajo people in the areas of justice information sharing, increased response to service calls, increased accuracy in mapping locations, increased local and community participation in restorative justice, increased staff for parklands patrols and prosecution, upgrades of software, vehicles, weapons, and other equipment, and increased community outreach and public education on issues of domestic violence, elder abuse, and community policing.

A volunteer collaborated effort was necessary in FY2011 to complete the application. However, there will be a need for an authorized entity to take over coordination of the grant application process next year and for our Navajo Nation leaders to advocate for a process that will take into consideration the size of our nation considering that all other eligible tribes are able to apply for the same amount with these grants.

The Judicial Branch has aggressively applied for grants due to insufficiency of funding. The branch continues to receive funding that only allows for approximately 4 percent of our budget to go toward operating costs with the remainder used for personnel. There are many areas that we would like to improve within our system, yet we are unable to establish planning for these areas without the funding to do so. If we were able to conduct planning and research, we would be better able to address declining revenues and other issues that are facing the Navajo Nation and our people.

Therefore, we renew our request for reasonable funding and for a capital budget to be considered so that we at Judicial Branch can also begin to address our need for improved facilities to deliver justice throughout the Navajo Nation.

There are many more issues that we will continue to bring up as important intra-governmental consultation takes place. These meaningful discussions must continue so that we may work together for the good of the Navajo Nation government and the Navajo people.

## **II. FY 2011 SECOND QUARTER ACTIVITIES OF THE CHIEF JUSTICE JANUARY, FEBRUARY, MARCH, 2011**

### **Accomplishments of Chief Justice Herb Yazzie and Associate Justice Eleanor Shirley.**

#### **TRAVEL TRAININGS/WORKSESSIONS**

On January 13, 2011, Chief Justice Yazzie traveled to meet with Federal Court Judge Roberta Joe and with the United States Department of the Interior, Office of Hearings and Appeals in Albuquerque. The meeting was on Trust Land Interests and the new American Indian Probate Reform Act (AIPRA). This new federal law applies to deaths occurring on June 20, 2006 and after.

On January 28, 2011, Chief Justice Yazzie attended the Arizona State, Tribal and Federal Courts Forum. The intersection of federal court jurisdiction with tribal court and state court jurisdiction in Arizona results in unique opportunities for cooperation between state, federal and tribal judiciaries. Recognizing this interaction, the Arizona State and Tribal Court Forum, formed in 1990 under the auspices of the Conferences of Chief Justices, recommended creation of an ongoing colloquium, which includes state, tribal and federal members. In response to this recommendation and the continuing work of the original Forum, in 1994 the chief judges of the United States Ninth Circuit Court of Appeals and the District Court of Arizona appointed judges to serve on such a body. Chief Justices and judges of Indian tribes and nations throughout Arizona also expressed

interest in participating in this court forum. The Navajo Nation courts have actively participated since the inception of this Forum. The possible upcoming meeting dates for calendar year 2011 are April 22 or 29 and September 23 or 30.

On February 7, 8, 2011, Chief Justice Yazzie traveled to Route 66 Hotel and Casino, Albuquerque to attend a BIA FY2013 Budget Formulation process meeting. This meeting addressed federal funding issues and the changes that are taking place nationally because of the uncertainty of future funding. This meeting was also an opportunity for the new administration of the Navajo Nation to gain knowledge of the federal budget process. The Nation is to identify three top priorities for additional funding which can further assist the needs of the Navajo People. These priorities should support the Tribal/Interior budget Council's priorities, which in turn supports the Bureau's Departmental Initiatives. The goal is to prepare an exception submission from Navajo for the Bureau of Indian Affairs' budget process.

On March 11-12, 2011, Chief Justice Yazzie traveled to Santa Ana Pueblo, NM to attend the Navajo Nation Executive Branch work session. The Division Directors from Executive Branch, and several Executive, Legislative, and Judicial Branch key staff attended the session. The purpose of the work session was to build a working team, establish rapport and cooperation among all three branches of the Navajo Nation government, and formulate strategic plans for the next four years.

On March 15, 16, 2011, Chief Justice Yazzie traveled to Washington, DC to attend the Tribal/Interior Budget Council Meeting. The meeting agenda included an update on FY2011 Budget; FY2012 President's Budget on Tribal Appropriations. Regional/Tribal Presentations for FY2013 Priorities were also on the agenda. On the March 16, 2011 agenda Region 1 thru 12 did presentations for 15 minutes. The focus was on one or two of the FY2013 priorities including accomplishments and needs. The Regions/Tribes Rank/Vote on overall priorities; Presentation of ranking/voting results was done. Results and strategies for the 2013 budget were presented by Mark Montano and Jefferson Keel.

On March 23, 24, 2011, Chief Justice Yazzie traveled to Route 66 Casino Hotel, Albuquerque, NM to attend and speak at the Peacemaking Program Guidelines Work Session. The worksession continues work on guidelines revisions so that peacemaking processes and procedures are more fully addressed in terms of Navajo traditional foundations.

On March 24, 25, 2011, Chief Justice Yazzie traveled to Isleta Hard Rock Hotel & Casino, Albuquerque, NM to attend the "*Montana v. United States: Pathmarking the Field of Indian Law for Three Decades and Counting*" a symposium sponsored by the UNM School of Law & the UNM Indian Law program. This case addressed issues concerning tribes' treaty rights, property interests, and sovereign governing authority on Indian reservations. Despite its modest beginnings as a dispute over who controls access to a highly prized trout fishery on the Big Horn River within the exterior boundaries of the Crow Reservation, *Montana* since has served as juggernaut and heralded a number of

unprecedented changes to core doctrines of federal Indian Law, all of them detrimental to tribes.

### **PRESENTATIONS/GUEST SPEAKER**

From January 26-29, 2011, Chief Justice Yazzie traveled to Tempe-Phoenix, AZ by invitation to serve as the 2011 William C. Canby Jr. Speaker at ASU's Sandra Day O'Conner College of Law, on the topic entitled "*What Makes a Nation*".

On March 8, 2011, Chief Justice Yazzie was invited to be a presenter at the Division of community Development (LGSC Monthly SPPS) meeting where he spoke on "Legal Issues and Concerns: Re: Post LGA (Local Governance Act)."

### **Judicial District/AOC/Executive Planning Meetings.**

On January 6, 2011, Chief Justice Yazzie, Chief Probation Officer Lucinda Yellowhair, operations analyst Perry Yazzie, , and judicial liaison officer Karen Francis met with Director of Arizona Adult Probation and Parole Chad Campbell, and Director of Arizona Juvenile Probation and Parole Kathy Waters, regarding cross jurisdictional probation and parole matters between the State of Arizona and the Navajo Nation. Background information was provided by each party regarding prior efforts, incidents involving state probation officers and the need for a formal working relationship.

The Arizona office was originally contacted regarding a possible development of an inter-governmental agreement for coordinated services, obstacles and barriers, statistics and communication, and the possible use of grant funds from the American Probation and Parole Association (APPA) develop a regional forum with Arizona in order to facilitate the working relationships among tribes, counties and the state. The Arizona representatives continue looking into the grant funds, which have a rolling deadline. Any application would be submitted by the Judicial Branch to APPA with support from the Arizona office.

On February 17, 2011, Chief Justice met with Court Administrator for Crownpoint Judicial District Rena Thompson, Human Resource Director Darren Tungovia; and Deputy Director of Judicial Administration M. Theresa Hopkins, on concerns and issues related to Crownpoint Judicial Districts.

On February 24, 2011, Chief Justice Yazzie chaired the Nabinahaazlaago Initiative Steering Commission meeting in Window Rock. Department of Dine Education Superintendent Andrew Tah; Chief Prosecutor Bernadine Martin; DeWayne Gardner, prosecutor for Tuba City; and Nabinahaazlaago Initiative staff members Perry Yazzie, Karen Francis and Dorothy Littleben were among the participants in the discussions on establishing priorities regarding youth justice. Revised language on the priorities is expected at the next commission meeting.

On February 25, 2011, Chief Justice Yazzie and Program Coordinator for the Peacemaker Program Gloria Benally, met with Eastern Agency Diné Peacemakers Society members.

The purpose of the meeting was to discuss concerns expressed to Peacemaking Program regarding its staff at the Crownpoint Judicial District.

On March 29, 2011, Chief Justice Yazzie signed a Memorandum of Understanding initiative between the Peacemaking Program and the Department of Behavioral Health Services, Star Schools, Berrachd Institute, and the Department of Dine Education relating to the Peacemaking Program's Youth Education and Apprentice Program. The MOU, which has also been signed by President Shelly, commits inter-agency personnel and resources for the sharing of knowledge and skills to carry out the delinquency prevention and youth education and empowerment goals of the Youth Education and Apprentice Program. As part of the program, peacemakers will be trained to provide services in schools.

### **Quarterly Judicial Conference**

On January 21, 2011, Chief Justice Yazzie conducted the regular quarterly Judicial Conference at Kayenta Justice Court. Associate Justice Eleanor Shirley and LaVerne Garnenez, Supreme Court Law Clerk both attended. Chief Justice Yazzie introduced newly hired employees Teresa Hopkins, Deputy Director of Judicial Administration; Malcolm Begay, Staff Attorney, Kayenta Judicial District, Derrick Burbank, Staff Attorney, Shiprock Judicial District and Glenn Renner, Staff Attorney, Aneth Judicial District. Chief Justice Yazzie discussed the status of Associate Justices Eleanor Shirley and the Peacemaking Guidelines (Training). The Youth Court (Teen Court) did a slide presentation by Beverly Bowman, Program Manager for Teen Court in Crownpoint; O'Ryan Anderson, Coordinator; and Perry Yazzie, Operations Analyst with Nabinahaazlaago Initiative. Other topics of discussion were Court Concerns and Court Security Policy. The following reports were made: Window Rock Judicial District's request for assistance in case management; Chinle Judicial District's funding needs for (roofing repair); the FY2011 Judicial Branch Budget; implementation of the Judicial Branch Employee Policies and Procedures. The next two Judicial Conferences are scheduled for April 29, 2011 at Aneth Judicial District and July 29, 2011, at Window Rock Judicial District.

### **Navajo Nation Supreme Court Justices Meetings**

During this quarter at various times, and every other Wednesday Chief Justice Yazzie, Associate Justices Eleanor Shirley, Supreme Court Law Clerk LaVerne H. Garnenez and Associate Attorney Josephine Foo, met on pending cases that were heard, upcoming hearings, pending motions and opinions and writs that were filed with the Supreme Court. Meetings were also held on

January 03, 05, 10, 12, 14, 19, 20, 24, 2011

February 04, 09, 11, 16, 17, 23, 2011

March 02, 09, 11, 18, 22, 28, 2011

### **Navajo Nation Supreme Court Complex**

On January 7 and 14, 2011, Chief Justice Yazzie, Eleanor Shirley and LaVerne Garnenez, Supreme Court Law Clerk, attended the meeting with Scott House from Navajo Nation Design and Engineering; Max Bighorse, P.E., of Bighorse Engineers; and the NNDOJ. The VCBO Architect Firm of Salt Lake City is designing the facility. Preliminary work including conducting the survey of the land will be done in conjunction with Max Bighorse, P.E of Bighorse Engineers.

### **Navajo Nation Integrated Justice Information Sharing Project (NNIJISP)**

On Tuesday, January 18, 2011, Chief Justice Yazzie attended a NNIJISP Technical Oversight Committee meeting to address the NNIJISP progress. As of September 28, 2010, project management of NNISJSP was transferred over to the Navajo Nation Department of Information Technology (DIT) because the technical aspects of the Justware Case Management Systems (CMS) programming needs was deemed by the TOC to be more suited to DIT management. Based on the review of the project status and grant funding requirements the TOC approved to reclassify the ITBSAS position by unanimous vote of (8-0). The decision is to reclassify the ITBSAS – a business side position - into two Programmer Analyst IT side positions.

From Monday, January 25, to Thursday, January 27, NNIJISP through coordinators at DPS and the Judicial Branch arranged for two USDOJ-funded technical assistance advisors from SEARCH.org to gather information and provide a report on issues concerning the CODY RMS/Justware CMS integration/interface and on the functionality of the CAD/RMS itself. Specifically, the advisors addressed data capture and extraction issues on both sides of the RMS/CMS divide, and identified both functional and operational difficulties. An assessment report has been received that will serve as the informational basis for future NNIJISP action. SEARCH met with the entire TOC from 11:00 a.m. – Noon, Thursday, January 27, 2011, to wrap up their visit and give the board their preliminary verbal findings. All Board members attended.

### **Oath of Office**

On January 11, 2011, Chief Justice Yazzie administered the Oath of Office in accordance to 7 NNC §374 to the newly elected Navajo Nation President Ben Shelly, Vice-President Rex Lee Jim, 22<sup>nd</sup> Navajo Nation Council Delegates, Navajo Board of Election Supervisors, and Navajo Nation Board of Education at the Inauguration held at the Navajo Nation Fairgrounds in Window Rock. Judicial Branch employees were given the opportunity to take Administrative Leave in order to attend the Inauguration in accordance to Employee's Policies and Procedures, Section 31.

On March 9, 2011, Associate Justice Eleanor Shirley administered the Officer's Oath of Office to (3) Police Officers Michael A. Camarillo, Arnold Silversmith, and Lee K. Hoskie.