

March 8, 2012

Statement of Maurice D. Geiger, Director of the Rural Justice Center, regarding a comparison between Tribal Courts and Rural Courts in the United States

To the Honorable Troy Eid, Chairman of the Indian Law and Order Commission, and Jeff Davis, Executive Director of the Commission and the other members of the Commission:

Greetings, I wish to thank you and the Commission for the opportunity to testify before the Commission, as you consider the future of Indian county criminal law and jurisdiction. I come before the Commission today to offer my thoughts and insights on how the experiences, and lessons learned by the Rural Justice Center (RJC) in the Rural Courts throughout the United States of America might be useful to the Commission as it considers proposing legislation to improve the administration of justice in Indian Country. Given the overlapping and interwoven complexities of the issues involved, and my limited grasp of the vexing challenges facing the Commission, It would be presumptuous for me to offer advice on specifics here today. I think it will be most useful to the Commission if I were to focus on what the RJC has learned during the last thirty years about the dynamics and characteristics of the administration of justice in rural America.

My plan is to talk at you for 30 or 40 minutes and then engage with a dialog with you to try and answer any question you may have.

I assume the Commission is generally unfamiliar with work of the Rural Justice Center, and therefore begin with a description of the RJC and some of the activities, especially research by the RJC, so you might consider how our experiences relate to the interests of the Commission. Also, so that you can give appropriate consideration to my remarks it will be useful to have some understanding of my background. I was born in a log cabin in the Manistee National Forest in Western Michigan in 1934 and live there until 1941. After attending public school in Michigan I attended Michigan State University graduating in 1956 with a degree in Law Enforcement. After college I entered the U. S. Navy as Aviation Officer Candidate and after Flight School was commissioned as a Naval Aviation Officer. Following my active duty I attended Georgetown University Law Center, graduating in 1963 and enter the bar in the state of Virginia. The following year I entered the U. S. Department of Justice as an attorney with the Office of Criminal Justice and in 1966 was appointed as the Director of the Office of Management Information and remained there until 1970 when I moved to the Federal Judicial Center as the Director of Innovation and Systems Development. In 1972 I was given a Ford Foundation Fellowship to attend the Institute of Court Management (By this time I was married and we had four sons) On completion of ICM we move to New England, and served the next four years with the DOJ Law Enforcement Assistance Administration working to improve the judicial systems throughout New England. In late 1970's and early 1980's I was the staff attorney on a national project to implement case management standards in a number of rural states. In that activity I worked with Ernie Friesen and Kathryn Fahnestock and in 1982 Ms. Fahnestock and I founded the Rural Justice Center, and I have been with the RJC since. In the 1980's and 90's we worked primarily in rural jurisdictions throughout

the USA conducting programs and research. Since 1995 my work has focused mostly on international projects. During the last 25 years I have worked on various projects to improve the administration of justice in rural America and developing nations in Latin America, Africa, Europe and Asia.

While working in the USA the RJC has conducted various research and programmatic projects. In the course of this work we have conducted on-site and off-site data collection and interviews in over 1,200 rural jurisdictions. We have spent over 1,000 days in those jurisdictions. We have conducted many judicial education programs covering issues in over 30 states. Our projects included: such subjects as: farm foreclosures, immigration issues, domestic violence, case management and pretrial detention.

In the course of our work we find it helpful to make comparisons between various justice systems. And have found it most useful to examine a judicial system through a framework of the characteristics of an ideal justice system. What would be the characteristics of such a system? Over the last fifty years, as the science of Court management has evolved, based on input from hundreds of Judges, legal scholars, citizens, and others a list of the following characteristics have emerged as the elements of an ideal justice system. This is not a list of fanciful or wishful characteristics but rather those that upon which there is universal agreement. I suggest that the Commission in assessing of the quality of Indian Country justice systems, that viewing a system against these characteristics will provide an objective framework for comparison and analysis. These characteristics are:

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| 1. Independence | 4. Accuracy | 7. Dignity | 10. Accountable |
| 2. Timely | 5. Competency | 8. Equal treatment | 11. Accessible |
| 3. Integrity | 6. Fairness | 9. Transparent | 12. Neutral (Impartial) |

While people can differ on and debate this list, it has served the judicial community well over the years and has withstood the test of time and has proven to be a useful construction for the purpose of developing a framework for discussing and analyzing judicial management. These characteristics are used to compare actual performances against the ideal characteristics to evaluate the quality of a justice system. While most of these features are very difficult to quantify, they do serve as a valid a measure of performance for a judicial system. Clearly the most objective and easiest measure of performance is “Timely”, and that is why the characteristic of timeliness is favored and as the most useful when assessing a judicial process.

We have gained many useful insights that may be useful in your work. A few are offered here for your consideration.

- When examining any complex system and collecting data in that endeavor, it is better to be roughly right than precisely wrong.
- If you ask the wrong questions you will get the wrong answers.
- Bad information is worse than no information.
- There is difference between “Data” and “Information”.
- In the doing of justice the Process may well be the most important product.