

**TRIBAL COURT HANDBOOK
FOR THE
26 FEDERALLY RECOGNIZED TRIBES
IN
WASHINGTON STATE**

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Editors

**Second Edition
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Reprint permission will be given by the editors upon request.

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TABLE OF CONTENTS

Preface

- I. Introduction
- II. History of Tribal Courts
- III. Tribal Courts in Washington State
 1. Overview
 2. Self-Contained Tribal Courts
 3. Northwest Intertribal Court System
 4. Tribal Appellate Courts
- IV. Sources of Tribal Law
 1. Tribal Constitutions
 2. Tribal Codes
 3. Federal Laws
- V. Impact of Public Law 83-280
- VI. Federal Cases on Jurisdiction and Procedure
- VII. Tribal Court Profiles
- VIII. Recommended Reading

PREFACE

In 1988, the Coordinating Council of the Association of State Supreme Court Chief Justices initiated a project to identify and resolve jurisdictional conflicts between tribal and state courts.

In 1990, the Civil Jurisdiction in Indian Country Project created demonstration forums in three states. These forums designed action agendas to address disputed jurisdiction problems, including plans for developing educational programs, informal meetings and working agreements, cross-visitations, exchanges of legal materials, agreements between tribal governments and state executive agencies, state legislation and other approaches resulting from mutual understanding and communication. The forum studies are expected to provide model approaches to enhance cooperation and reduce conflict between tribal and state courts.

Washington was selected by the Coordinating Council as a forum state, along with Arizona and Oklahoma, based on diversity of tribal courts, extent of jurisdictional conflicts and a history of cooperative working relationships between tribal and state courts and governments. The Washington Forum developed this Handbook in the expectation that dissemination of information about tribal courts in Washington will improve public understanding of those courts and reduce jurisdictional conflicts.

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I. INTRODUCTION

Twenty-six federally recognized Indian tribes are located within the boundaries of Washington state. Each of these tribes operates a tribal court or participates in the Northwest Intertribal Court System, a judicial services consortium. These courts vary widely in size, jurisdiction, and procedure.

The federal policy of self-determination toward Indian tribes has led to an overall increase in the numbers, size, and scope of tribal courts. These courts exert general jurisdiction over their tribal membership, as limited by the tribal code and constitution, and federal law. Criminal jurisdiction is limited to tribal members and non-member Indians, and in some cases is exercised concurrently with federal or state courts. Recent federal costs have established that tribal courts also have jurisdiction over disputes arising out of voluntary economic activity by non-Indians on reservations. However, the scope of civil jurisdiction over non-Indians for activities on their own lands is generally subject to a tribal interest test. As tribes continue efforts toward economic development and self-determination, increasing resort will be had to tribal courts for dispute resolution.

While tribal courts are similar to state and municipal courts, fundamental differences are evident. First, there is no consistency between the courts from tribe to tribe. Each tribe operates its own courts using its own code and procedures. Thus a practitioner must be familiar with the unique scope and procedures of each tribal court in which she practices. Second, Washington state exerts partial jurisdiction over tribes under authority of federal law. That jurisdiction affects specific subject matters, such as divorce and mental illness, but has been preempted in some areas and partially retroceded for several tribes. Understanding the complexities of jurisdiction in Indian country is essential for the tribal court attorney.

A third consideration is that some federal law, statutory and judge-made, controls certain tribal court practices. The Indian Civil Rights Act is an example of a statute applicable to tribal courts. Recent U.S. Supreme Court cases also have important bearing on tribal court jurisdiction.

This handbook attempts to organize and present important information relevant to practice in tribal courts in Washington state. Increasing numbers of attorneys appear before these courts. A basic understanding of how to practice and what cases are appropriately before the courts is essential to orderly and efficient justice. In addition, tribal courts do not spring full-bloom into operation, and an

accurate understanding of them will assist in the administration of tribal courts still developing.

Section II provides a short history of the development of tribal courts. A survey of federal policy and important concepts such as tribal sovereignty are provided for those unfamiliar with Indian law.

Section III through VI describe tribal courts in Washington state in a general fashion, the impact of federal Public Law 280 on jurisdictional questions, the sources of tribal law, especially tribal codes, and a description of federal cases and the jurisdictional framework those cases contemplate for tribal courts.

Section VII presents tribe-by-tribe profiles of all of the tribal courts currently operating in Washington state. These profiles provide some background information on tribes and specific information about court procedures and caseloads.

Finally, a recommended reading list enumerates basic materials that may further the reader's understanding of Indian law in the United States.

II. HISTORY OF TRIBAL COURTS

The traditional legal systems of American Indian tribes differed as greatly from each other as from those of the European settlers. Traditional tribal law included sanctions such as restitution, punishment, payment to a victim or his heirs, vengeance and peer group pressure. Contact with European settlers, however, drastically altered traditional tribal legal systems. The disruption of aboriginal economies, the introduction of new technologies and the influence of missionaries contributed to their demise.

A fundamental restructuring of tribal society also contributed to the disappearance of many traditional dispute settlement systems. Before contact with Europeans most tribes, particularly those in Washington, had no centralized authority. Instead, they were made up of small independent bands or villages which united only for specific purposes. In order to deal with the overwhelming threat of European expansionism, many tribes united permanently. Others were forcibly confederated to facilitate treaty-making by government officials more interested in orderly land cessions than preservation of historic tribal institutions. In most cases the disintegration and suppression of traditional methods of dispute resolution left a vacuum in tribal governing authority.

In 1883 the BIA authorized the creation of Courts of Indian Offenses (CFR courts) in order to fill the void caused by declines in traditional authority and reduce the powers of traditional chiefs by creating a competing center of authority. The BIA exercised significant control over these courts. The BIA hired and paid the judges and police and promulgated the rules and procedures under which the courts operated. While Congress enacted no specific statutory authority for CFR courts their validity is now recognized by congressional ratification and acquiescence.

The reforms of the Collier administration of the BIA and the Indian Reorganization Act (IRA) of 1934² diminished BIA control over the CFR courts. In 1935 the BIA published a revised Code of Indian Tribal Offenses which, along with the IRA, encouraged tribal governments to reestablish their governing powers modeled on Anglo-American institutions. Pursuant to the IRA, many tribes drafted their own constitutions. Other tribes organized based on their inherent tribal sovereign powers. Some tribes set up their own court systems and code of laws, while others elected to remain under the BIA system. Tribes that adopted their own codes and court systems, however, did not completely extinguish BIA control. The BIA retained the right to veto tribal code sections that they found objectionable for legal or policy reasons.

Although many improvements in tribal self-governance occurred because of the Indian Reorganization Act and the progressive policies of the Collier administration, little money was available to pay for the improvement of Indian tribal codes and courts. In any case, as the 1940's progressed Congress became increasingly critical of self-determination policies and threatened to repeal the IRA.

In 1949, the Hoover Commission's Report on Indian Affairs heralded an about-face in federal policy. It recommended that Indians should be integrated "into the mass of the population as full, taxpaying citizens."³ House Concurrent Resolution 108 of 1953⁴ announced a new national policy of terminating the special relationship between Indian tribes and the federal government. Congress terminated some tribes through specific legislation and subjected others to state jurisdiction under Public Law 83-280.⁵ Predictably, during the termination era, few funds were available to improve tribal legal systems.

The destructive effects of the termination era were soon evident, and by the mid 1960's, federal policy returned to supporting self-determination. By the 1970's tribes with independent courts began to rewrite their codes to reflect their specific needs. Likewise, tribes that remained under BIA jurisdiction began to develop their own legal systems. Because the CFR code and courts provided the starting point for both trends, however, most tribal legal systems continue to reflect an Anglo-American concept of the law. For much the same reason, many tribal institutions closely

resemble one another. Only a very few tribes, principally Southwestern pueblos, retain judicial systems based upon Indian traditions and customs. Even several of these tribes have made concessions to modern conditions by adopting written laws.

Passage of the Indian Civil Rights Act of 1968 (ICRA)⁶ coincided with the emergence of the self-determination era. While recognizing the legitimacy of tribal self-governance, ICRA imposed most of the federal Bill of Rights on all tribes. Congress enacted ICRA to allay fears that tribes, which are not subject to the federal constitution, could abuse individual liberties. By imposing the constraints of the Bill of Rights on Indian tribes, ICRA limited the latitude of self-governance that tribes had previously enjoyed. For example, ICRA made it unlawful for a tribal government to enact a law that imposes punishment without a judicial trial.⁷ This effectively requires tribal government to include a judicial system.

Three types of legal institutions now function in Indian Country: tribal courts, CFR courts, and traditional dispute settlement institutions. The existence and power of tribal courts derive from the sovereignty of Indian tribes. Tribal courts are the most common type of Indian court, particularly in Washington state. The tribal governing body legislates the code and court procedures used by the tribal court. CFR courts operate under the authority of federal regulations,⁸ and may function concurrently with a tribal court and code. Traditional institutions remain the official system on only a few reservations. Tribal courts, however, still use traditional methods for dispute resolution. Many tribes incorporate customary law into written codes or provide a tribal court procedure for the use of unwritten tribal customs.

III. TRIBAL COURTS IN WASHINGTON STATE

1. Overview

Twenty-six tribes or confederations of tribes are located in Washington State, each operating its own court. Sixteen tribes participate in the Northwest Intertribal Court System, and ten operate self-contained courts. Tribal court profiles, describing specific information for each court, are provided in Section VII. Few general rules govern description of tribal courts. The twenty-six tribes of Washington present widely divergent profiles in terms of land base, population, and delegation of authority to their tribal courts.

The jurisdiction of tribal courts is based on tribal codes, and ranges from enforcement of the tribal fishery regulations to full substantive civil and criminal

authority as limited only by federal law. Rules of evidence, when promulgated, are also based on tribal codes. Some are very general, for example, requiring only that the court "carry out the intent of the law." Others are based on federal rules of evidence or are otherwise more specific.

Court procedures also vary. Each tribal court uses its own rules for admission to practice, and many admit qualified lay advocates to the tribal bar. Typically, an advocate must be familiar with the tribal code, take an oath, and pay a fee in order to be admitted to the tribal bar. Some tribal judges have obtained a law degree, others are trained through the National American Indian Court Judges Association. Some tribes have entered into agreements with adjacent county and city governments to minimize jurisdictional conflicts and facilitate law enforcement activity. The unique characteristics of each tribal court in Washington state are set forth in Section VII.

2. Self-Contained Tribal Courts

Ten of the twenty-six tribal courts in Washington are tribally self-contained operations. These tribes include the Colville Confederated Tribes, Kalispel Tribe of Indians, Lummi Tribe, Makah Indian Tribe, Puyallup Tribe of Indians, Quileute Indian Tribe, Quinault Indian Nation, Spokane Tribe, Suquamish Tribe, and the Yakima Indian Nation. As distinguished from NICS-member tribe (see below), these tribes employ or appoint their own judges, prosecutors and public defenders. Some of these tribes contract with Evergreen Legal Services for prosecuting and public defender attorneys. Other directly employ their own attorneys.

3. The Northwest Intertribal Court System (NICS)

NICS is a circuit court system serving sixteen tribes in Western Washington. As of September 1992, NICS membership includes: Chehalis Tribe, Hoh Indian Tribe, Lower Elwha Klallam Indian Tribe, Muckleshoot Indian Tribe, Nisqually Indian Tribe, Nooksack Indian Tribe, Port Gamble S'Klallam Tribe, Sauk-Suiattle Indian Tribe, Shoalwater Bay Indian Tribe, Skokomish Tribe, Squaxin Island Indian Tribe, Stillaguamish Indian Tribe, Swinomish Indian Tribe, The Tulalip Tribes, and the Upper Skagit Tribe. In addition, some tribes receive NICS services on a contract basis. Administrative offices are located in Edmonds, Washington, (telephone: 774-5808). NICS is not a court. Instead, it provides various services to its member tribes at the tribal courts located on each reservation.

The member tribes of NICS founded the consortium in 1979, following adjudication of the *United States v. Washington* treaty fishing rights litigation. That

decision gave tribes the opportunity to co-manage state fisheries with Washington state agencies. Co-management required tribes to promulgate their own fish and game codes and establish tribal courts to adjudicate violations. While NICS provides court services in response to that need, member tribes are not limited to fisheries enforcement jurisdiction. The personal and subject matter jurisdiction of the member tribal courts vary widely.

NICS operates as a circuit court, providing judges, prosecutors, public defenders, and code writers to its members. Member tribes approve NICS-appointed judges, provide tribal codes, court facilities and court clerks, and arrange for penal facilities for defendants sentenced to jail. NICS personnel travel to each reservation at least twice per month. Judges apply the law of each tribe using its tribal code which establishes personal and subject matter jurisdiction for that court.

NICS also provides an alternative dispute resolution program for its members. The court may refer parties, or parties may self-select this program. NICS provides a variety of methods of dispute resolution, including a 3-5 member panel, a mediator or arbitrator. The program has no binding procedural rules but tribal codes may limit jurisdiction.

4. Tribal Appellate Courts

Like their trial court counterparts, tribal appellate courts vary widely among tribes located in Washington state. Several independent (non-NICS) tribes participate in an intertribal appellate system, in which three or more tribal judges sit and hear appellate cases in an unrelated trial court. This arrangement provides an objective appellate process for tribes that retain fewer than four judges. Again, appellate procedure varies from one tribal court to the next. Some tribal courts permit *de novo* hearings on appeal, while others limit the appellate record. Specific procedures for each court are found in Section VII's tribal court profiles.

NICS provides appellate services to its membership, and offers its appellate services to twenty-four other tribes located in the Northwest, including tribes in western Montana, Alaska, Oregon and Idaho. Appellate procedures and law are based on each tribe's code and court rules.

IV. SOURCES OF TRIBAL LAW

1. Tribal Constitutions

Indian tribes possess an inherent sovereignty that permits self-governance, including establishment of tribal law and courts. Many tribes, however, have organized pursuant to the Indian Reorganization Act, or have been influenced by its provisions. Thus, tribal government structure at least superficially resembles local, state and federal governments. Tribal constitutions establish this structure, although the judicial branch of tribal government may be legislated rather than set forth in the constitution. Few tribes maintain a tribal court completely independent of the tribal council.

2. Tribal Codes

Tribal councils promulgate law for each tribe. Those laws, or tribal codes, come in three basic formats. The least common format is a commercially published tribal code. Such codes are organized to include an index, legislative history, and method of incorporating later revisions. At present only a few tribes have commercially published codes, but given the increased sophistication of tribal codes in recent years, more tribes may opt for commercial publication in the future.

The majority of tribal codes are organized in three ring binders with a table of contents or visual tabs to guide the reader through their contents. In most cases, the original body of the code is drafted pursuant to a general resolution by the tribal council and then approved by the council. Amendments are either incorporated into the body of the text or filed behind the relevant section. All but the most rudimentary legislative history is a rarity. This format provides a cheap and relatively well organized way of documenting the laws of the tribe.

The characteristic common to the third group of codes is chaos. Often all that exists are individual sections, such as a juvenile code or criminal code, along with uncodified tribal council resolutions all without a clear numbering system or reference to other law, or any indication which laws are still in effect.

The problems involved in the organization of tribal codes are comparable to those faced by the state and municipal governments of the 1950's and 1960's. At that time states and municipalities embarked on massive code revision projects in order to deal with an increasing assertion of local jurisdiction. Currently, tribal codes are being revised and organized to meet the increased assertions of tribal jurisdiction. NICS has recently undertaken a major code writing and reorganization project for its member tribes.

The tribal court profiles in Section VII describe each tribal code in general terms. Most tribal codes may be obtained from the tribal court clerk. Recent tribal codes for Indian tribes throughout the United States, including Washington, are assembled in the microfiche collection *Indian Tribal Codes*, R. W. Johnson, ed. (See Section VIII, Recommended Reading).

3. Federal Laws

While Indian tribes are endowed with an inherent sovereignty, they are nevertheless subject to the power of Congress. Legislative acts of the termination era provide potent examples: while Congress could not eliminate any tribe outright, it did sever federal relations with many tribes, and permitted states to exercise jurisdiction over others (see Section V).

Congress has passed two laws that have had an important impact on tribal court law and procedure. The Indian Civil Rights Act of 1968 (ICRA)⁹ imposed restrictions similar to the federal Bill of Rights on Indian tribal government. The provisions of ICRA are enforceable almost exclusively in tribal courts, although habeas corpus relief is available to incarcerated criminal defendants from federal courts. Because the legal development of ICRA is found in tribal courts, the substantive values associated with Indian civil rights may vary from those promoted by federal and state courts. ICRA limits the penalties tribal courts may vary from those promoted by federal and state courts. ICRA limits the penalties tribal courts may impose in criminal proceedings to \$5,000 fines and maximum jail sentences of one year.

The Indian Child Welfare Act of 1978 (ICWA)¹⁰ is the second federal law with sweeping impact on tribal courts. ICWA recognizes tribal sovereign interests in the separation of Indian children from their families and their placement in foster or adoptive homes. The ICWA places exclusive or concurrent jurisdiction over child welfare proceedings in the tribal court of the domicile of the child. ICWA also establishes fairly elaborate procedures for state courts that retain concurrent jurisdiction over Indian children. For example, the tribe retains a right of intervention, state courts must give full faith and credit to tribal court judgments and orders, and stringent notification procedures are set forth. In Washington the Department of Social and Health Services has entered into ICWA jurisdictional agreements with a number of Washington tribes.

Several other federal laws impact tribal courts not by imposing specific law on them, but by limiting the powers of tribes and their courts. The most important of these, PL 83-280, is described in detail in Section V below. Criminal jurisdiction in

Indian country is complex and governed by several federal laws. Selections in the Recommended Reading list will aid in understanding this area of law.

Finally, tribal courts are governed by decisions in federal courts relevant to the laws described above and other Indian law subjects. Specifically, a tribal court may be bound by relevant decisions of the federal court of appeals sitting in the jurisdiction in which the tribe is located (the Ninth Circuit Court of Appeals in Washington) and by decisions of the United States Supreme Court. A survey of the most relevant of these decisions is provided in Section VI.

V. IMPACT OF PUBLIC LAW 83-280

Consonant with the federal policy goals of the termination era, Congress in 1953 enacted Public Law 83-280 (PL 280),^u which empowered states to impose, with or without Indian consent, substantial state jurisdiction over Indian reservations (except for water rights, and hunting and fishing rights). Several states asserted involuntary jurisdiction over all Indian country within their boundaries.

Under the authority of this act, the Washington legislature in 1957 enacted RCW 37.12.010, providing that with tribal consent the governor would proclaim state civil and/or criminal jurisdiction over reservations. Nine tribes so requested, for both criminal and civil jurisdiction: Chehalis, Colville, Muckleshoot, Nisqually, Quileute, Quinault, Skokomish, Squaxin Island, Suquamish, and Tulalip tribes. Other reservations were created after 1963, and it is thus questionable whether any PL 280 jurisdiction applies there. These include the Jamestown S'Klallam, Lower Elwha Klallam, Nooksack, Port Gamble, Sauk-Suiattle, and Upper Skagit tribes.

In 1963 Washington amended RCW 37.12.010 to impose, without tribal consent, state criminal and civil jurisdiction over:

- (1) all non-Indians wherever located on a reservation, including tribal or allotted land.
- (2) Indians on fee patent land on reservations.
- (3) Indians on tribally owned or allotted lands held in trust by the federal government, as to:
 - a. compulsory school attendance
 - b. public assistance,
 - c. domestic relations,
 - d. mental illness,

- e. juvenile delinquency,
- f. adoption proceedings (modified by ICWA),
- g. dependent children (modified by ICWA), and
- h. operation of motor vehicles on public street, alleys and roads and highways.

The federal courts have ruled that PL 280 does not authorize states to impose taxes, or local zoning laws on reservations. The act only authorizes imposition of statewide laws of general application, such as the criminal code, and the common law of torts.¹²

PL 280 was amended in 1968 by the Indian Civil Rights Act.¹³ Thereafter no state may acquire jurisdiction over an Indian reservation without tribal consent. This act, however, was not retroactive, and did not affect pre-1968 state jurisdictional assumptions under PL 280.

Tribal and state jurisdiction in Washington under PL 280 are concurrent.¹⁴ The argument for concurrent jurisdiction is that Congress intended, in PL 280, to transfer only the federal government's jurisdiction to the states, and did not intend to transfer tribal jurisdiction. In practice this concurrent jurisdiction may precipitate a race to the courthouse, and a race to final judgment.

The Indian Civil Rights Act of 1968 also authorized the states, with tribal and federal consent, to retrocede or return jurisdiction from the state to the federal government, that is, to undo PL 280 assumptions of jurisdiction. Retrocession of jurisdiction first occurred on the Port Madison reservation of the Suquamish Tribe, but affected only the voluntarily-requested state jurisdiction under the 1957 state law, and did not retrocede the "imposed" state jurisdiction under the 1963 state law.¹⁵ In 1986 the state retroceded to the Colville Tribes criminal jurisdiction over Indians for crimes committed on the Colville reservation.¹⁶ That retrocession was extended to the Quileute, Chehalis and Swinomish reservations in 1988.¹⁷

VI. FEDERAL CASES ON JURISDICTION AND PROCEDURE

In the past two decades the U.S. Supreme Court has decided several key cases with immediate implications for tribal courts and codes. In *Santa Clara Pueblo v. Martinez*¹⁸ the Supreme Court held that the Indian Civil Rights Act (ICRA) limited federal court review of tribal court decisions to criminal cases in which the petitioning party is in detention. Thus the tribal courts are responsible for enforcing the

protection provided to individuals under ICRA, unless a plaintiff brings a *habeas corpus* action.

In *Oliphant v. Suquamish Indian Tribe*¹⁹ the court ruled that Indian tribes do not have criminal jurisdiction over non-Indians. This decision altered the development of tribal codes. Many tribes responded through increased use of civil remedies and penalties, and by enacting or revising non-member exclusion statutes. Others worked out cooperative agreements with local state and county law enforcement agencies. Many people in the Indian law community, however, believe that a law enforcement void remains in Indian country. This void was enlarged in *Duro v. Reina*,²⁰ in which the court found that Indian tribes cannot exercise criminal jurisdiction over non-member Indians. Congress, however, responded quickly by amending ICRA to provide for tribal criminal misdemeanor jurisdiction over all Indians.²¹

In the realm of civil jurisdiction, the 1959 decision in *Williams v. Lee*²² planted the seeds of modern analysis of jurisdictional conflicts between states and Indian tribes. That decision firmly established tribal court jurisdiction over a suit between Indians and non-Indians arising out of voluntary activity on the reservation. It discussed that jurisdiction both in terms of tribal sovereignty and state infringement on tribal interests. By 1973, in *McClanahan v. Arizona Tax Commission*,²³ tribal sovereignty had become a "backdrop," and federal preemption analysis dominated the court's reasoning. That decision struck down a state tax on income earned by an Indian on the reservation.

*Montana v. United States*²⁴ addressed the issue of tribal regulation of non-Indians on fee land within the reservation boundaries. The court found that the tribe could only regulate non-Indians to protect self-government and internal relations, political integrity, economic security, and the health and welfare of the tribe. The tribal fish and game code was held not to further any of these interests and was struck down as it applied to non-Indians on non-Indian land.

In *Brendale v. Confederated Tribes and Bands of Yakima Indian Nation*,²⁵ the Supreme Court further confused the issue of tribal regulation of non-Indians. Splitting 4-2-3, the Court upheld tribal authority to zone non-Indian fee land in some circumstances, but also recognized county authority to zone such land in areas of lesser tribal interest. The county cannot regulate tribal trust lands.

Finally, two recent U.S. Supreme Court cases directly addressed the jurisdictional powers of tribal courts. In *National Farmers Union Co. v. Crow Tribe of Indians*²⁶ the court held that, in a suit brought in tribal court by an Indian against a non-Indian, that court must determine its jurisdiction first, a determination to be

reviewed by tribal appellate courts. Only after exhaustion of tribal court remedies may the jurisdictional determination be challenged in federal court. *Iowa Mutual Insurance Co. v. Laplante*²⁷ extended the exhaustion of remedies requirement to diversity cases and reiterated the primacy of tribal court jurisdiction over civil suits arising out of activity on the reservation.

VII. TRIBAL COURT PROFILES

The following profiles provide specific information for each tribal court operating in Washington state. Further information may be obtained by contacting the courts.

- | | |
|-------------------------------------|------------------------------------|
| 1. Chehalis Tribe | 14. Quileute Indian Tribe |
| 2. Colville Confederated Tribes | 15. Quinault Indian Nation |
| 3. Hoh Indian Tribe | 16. Sauk-Suiattle Indian Tribe |
| 4. Jamestown S'Kallam Tribe | 17. Shoalwater Bay Indian Tribe |
| 5. Kalispel Tribe of Indians | 18. Skokomish Tribe |
| 6. Lower Elwha Klallam Indian Tribe | 19. Spokane Tribe |
| 7. Lummi Tribe | 20. Squaxin Island Indian Tribe |
| 8. Makah Indian Tribe | 21. Stillaguamish Indian Tribe |
| 9. Muckleshoot Indian Tribe | 22. Suquamish Tribe |
| 10. Nisqually Indian Tribe | 23. Swinomish Indian Tribal Comm'y |
| 11. Nooksack Indian Tribe | 24. The Tulalip Tribes |
| 12. Port Gamble S'Klallam Tribe | 25. Upper Skagit Tribe |
| 13. Puyallup Tribe of Indians | 26. Yakima Indian Nation |

The statistics recorded in the following profiles are provided for illustrative purposes only. Current data concerning caseloads and other information should be obtained directly from each court.

CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION

TRIBAL & JUDICIAL OFFICES: Chehalis Tribe, P. O. Box 536, Oakville, WA 98568 (Grays Harbor and Thurston Counties); (206) 273-5911; FAX (206) 273-5914; Chair: Percy Youckton.

TRIBAL ORGANIZATION: Chehalis Business Committee, 5 members, 2 year term of office. Indian Populations (BIA 1985): 777.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	2	Criminal	11
Civil	2	Civil	0
Juvenile	3		
ICWA	14	<u>NICS (FY 1991)</u>	
Other	2	Criminal & Civil	32
Total	23		

GENERAL COURT INFORMATION:

Facilities: Court facilities include a courtroom, clerk's office and law library.

Personnel: The tribal court contracts with the NICS for judicial services. The tribe employs a court clerk.

Admission to Practice: Professional attorneys and lay counsel may practice upon payment of \$100 fee and oath before the judge.

Procedures: Civil, criminal, and appellate procedures are contained in the tribal code.

Record of Proceeding: The court clerk keeps a tape recording of testimony and arguments.

Appellate Procedures: Appeals are heard by an NICS appellate panel.

SOURCES OF LAW:

Constitution: Tribal Constitution, revised and approved 7/11/73.
Tribal Court authorized by Tribal Constitution, Article V, section 1(g) and (l).

Code/Local Ordinances: The tribal code contains ordinances governing criminal law, civil traffic law, juvenile justice, exclusion, domestic violence, construction, bingo, fireworks, fishing, housing authority, and a marriage and youth code. The code is available from the court clerk.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

The Chehalis Tribe has no formal written agreements with the state of Washington or surrounding counties and municipalities concerning the mutual recognition of court judgments. Chehalis judgments are recognized by other tribes who are participating members of the Northwest Intertribal Court System. The tribe contracts with Olympia city and Puyallup tribal jails for adult detention.

COLVILLE CONFEDERATED TRIBES

TRIBAL OFFICE: Colville Confederated Tribes, P. O. Box 150, Nespalem, WA 99155; (Ferry and Okanogan Counties); (509) 634-4711; Chair: Eddie Palmanteer.

TRIBAL ORGANIZATION: Colville Business Council, 14 members, 2 year term of office. Indian population (BIA 1985): 3,799.

JUDICIAL OFFICE: Colville Confederated Tribal Court, P. O. Box 150, Nespalem, WA 99115; (509) 634-8880; Court Administrator: Jane Smith ((509) 634-8846).

CASELOAD:

BIA (1983)

**TRIBE
(FY 1989)**

**TRIBE
(FY 1991)**

Criminal	305	Criminal	854	Criminal	461
Civil	31	Civil	152	Civil	285
Juvenile	20	Juvenile	39	Juvenile	30
ICWA	20	Civ Infraction	290	Civ Infraction	158
Other	5	Administrative	47	Administrative	47
Total	381	Appeals	5	Appeals	11
		Other	4	Other	17
		Total	1,391	Total	1,009

GENERAL COURT INFORMATION:

Facilities: The court facilities include two courtrooms and a law library.

Personnel: The tribal court staff includes three judges, three clerks of court, two probation officers, and one court administrator.

Legal Counsel: The tribal court is served by three independent legal offices: a tribal prosecutor ((509) 634-8870), a public defender ((509) 634-8832), and a legal office ((509) 634-8861).

Admission to Practice: Attorneys and lay counsel who wish to practice before the tribal court must: (1) pay an initial fee; (2) know the Law and Order Code; (3) take a short oral exam administered by the chief judge (which can be telephonically); (4) execute a Spokesman's oath and (5) pay the annual fee.

Procedures: The tribal court has written rules of procedures in the Law and Order Code. A tribal task force is reviewing Washington State rules, to be promulgated in one year. The tribal court also refers to federal and Washington State rules when needed.

Record of Proceeding: Proceedings are tape recorded. The tribal court with certify transcriptions.

Appellate Procedures: Appeals are heard by a panel of three judges, selected from attorneys in private practice and judges from other tribes. The panel has discretion to determine appeals on the record or request briefs. The initial hearing is held within 45 days to determine procedures.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 4/19/38 and amended. Tribal Court authorized at Article V, Section 1(d).

Code/Local Ordinances: Law and Order Code covers criminal, civil, juvenile, and administrative matters, including recognition of foreign judgments. There are no limitations on civil matters. The code may be obtained from the Court Administrator for a \$25 fee. The tribal court exercises jurisdiction over Indians in all substantive legal matters and over non-Indians in civil matters.

Reported Decisions: Colville Tribal Court Reporter. Decisions are available at the court (some decisions are published in the Indian Law Reporter).

Customary Law: Established through consultation with tribal elders.

AGREEMENTS WITH OTHER JURISDICTIONS:

The tribal court may recognize tribal, state, or county support orders, extradition requests, and creditor claim judgments, following review by the tribal court judge. The tribe has entered into cross-deputization agreements with Ferry and Okanogan Counties, and the federal government.

HOH INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Hoh Indian Tribe, HC80 Box 917, Forks, WA 98331; (Jefferson County); (206) 374-6582; FAX (206) 374-6549; Chair: Mary Leitka.

TRIBAL ORGANIZATION: Hoh Tribal Business Committee, 4 members, 2 year term of office. Indian Population (BIA 1985): 91.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	4	Criminal	20
Civil	1	Civil	0

Juvenile	0		
ICWA	0	<u>NICS (FY 1991)</u>	
Other	0	Criminal & Civil	13
Total	5	ICWA	3

GENERAL COURT INFORMATION:

Facilities: The tribal court has one courtroom. Offenders are incarcerated in Forks city of Taholah tribal jail.

Personnel: The tribal court contracts with the NICS for judicial services. The tribe employs one court clerk.

Admission to Practice: Any person over 18 may appear as a representative upon application, payment of fee, certification of familiarity with the tribal constitution, ordinances, and court rules, and execution of oath.

Procedures: The Hoh Indian Tribe Court Procedures Ordinance establishes court rules and procedures, including sample forms.

Record of Proceeding: All proceedings are tape recorded and transcribed by the court clerk.

Appellate Procedures: Appeals are heard by an NICS appellate panel. Procedures are set forth in the Court Procedures Ordinance, Section VIII.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 7/1/69.
Tribal Court authorized at Article IV, section 1(g).

Code/Local Ordinances: The tribal court exercises jurisdiction over Indians in criminal, traffic, fish and game, domestic violence, firearms, housing eviction, livestock, liquor, motor vehicle, pets, solid waste, trespass and youth matters. Civil jurisdiction applies to non-Indians, including the traffic and exclusion codes.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge may also consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS: None reported.

JAMESTOWN S'KLALLAM TRIBE

TRIBAL OFFICE: Jamestown S'Klallam Tribe, 305 Old Blyn Hwy., Sequim, WA 98382; (206) 683-1109;
FAX (206) 683-4366; Chair: William Ron Allen.

TRIBAL ORGANIZATION: Jamestown S'Klallam Tribal Council 5 members, 2 year term of office. Tribal membership: 250.

JUDICIAL OFFICE: Jamestown S'Klallam Tribal Court, 305 Old Blyn Hwy., Sequim, WA 98382; (206) 683-1109.

CASELOAD:

BIA (1983)

Criminal	1
Civil	1
Juvenile	1
Other	0
Total	3

GENERAL COURT INFORMATION:

Facilities: The court facilities are located in the tribal council office.

Personnel: Tribal court employs one clerk. NICS provides all other personnel.

Admission to Practice: Applicants submit a signed oath.

Procedures: Court procedures are available from the court clerk.

Record of Proceeding: Proceedings are tape recorded.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 11/19/83 IRA.
Tribal Court authorized by Tribal Constitution, Article VIII, section 1(i).

Code/Local Ordinances: The tribal code contains fishing and hunting regulations.

AGREEMENTS WITH OTHER JURISDICTIONS:

The Jamestown S'Klallam Tribe has no formal agreements with other jurisdictions.

KALISPEL TRIBE OF INDIANS

TRIBAL OFFICE: Kalispel Tribe of Indians, P. O. Box 39, Usk, WA 99180 (Pend Oreille County);
(509) 445-1147; Chair: Glen Nenema.

TRIBAL ORGANIZATION: Kalispel Tribal Business Committee. Indian Population (BIA 1985): 259.

JUDICIAL OFFICE: Kalispel Tribal Court, P. O. Box 96, Usk, WA 99180; (509) 445-1664; 445-1147;
Chief Judge: Jeannette E. Whitford.

CASELOAD:

<u>BIA (1983)</u>	
Criminal	10
Civil	4
Juvenile	4
ICWA	2
Other	0
Total	20

GENERAL COURT INFORMATION:

Facilities: Court is held in the community building. Jail service is provided to the court under contract.

Personnel: The tribal court staff includes one chief judge, one magistrate and one court administrator/clerk.

Admission to Practice: Interpreters and lay counsel may practice before the court. Subject to the court's discretion, all applicants to practice must have familiarity with the tribal code and take an oath.

Procedures: Procedural guidelines are included in the substantive sections of the tribal code.

Record of Proceeding: The court clerk keeps tape recordings and minutes of all proceedings. Copies are available for a fee.

Appellate Procedures: Appeals of civil infractions are heard *de novo* by an appointed judge. NICS provides all other appellate services.

SOURCES OF LAW:

Constitution: Tribal Constitution, revised and approved 7/27/67.
Tribal Court authorized by the Law and Order Code of the Kalispel Tribe of Indians.

Code/Local Ordinances: The tribal code includes provisions for criminal misdemeanors, civil suits, youth code, domestic violence, gaming control, hunting and fishing ordinance, fireworks sales, traffic, probate, juvenile, and tobacco & liquor control. The tribal court exercises jurisdiction over Indians in all substantive legal matters and over non-Indians in civil matters.

AGREEMENTS WITH OTHER JURISDICTIONS:

The tribal court recognizes state and county support orders and extradition requests, but not creditor claim judgments. Non-tribal judicial requests must be processed by the tribal court for enforcement on the reservation. The tribe has entered into a cross-deputization agreement of tribal police with Pend Oreille County.

LOWER ELWHA KLALLAM INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Lower Elwha Klallam Indian Tribe, 1666 Lower Elwha Rd., Port Angeles, WA 98362 (Clallam County); (206) 452-8471; FAX (206) 452-3428; Chair: Carla Elofson.

TRIBAL ORGANIZATION: Lower Elwha Tribal Business Committee, 5 members, 3 year term of office. Tribal Enrollment (1992): 565.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	20	Criminal	20
Civil	5	Civil	7
Juvenile	20		
ICWA	100	<u>NICS (FY 1991)</u>	
Other	5	Criminal & Civil	28
Total	150	ICWA	3

GENERAL COURT INFORMATION:

Facilities: The court facilities include a courtroom, clerk's office, and jury room.

Personnel: The Lower Elwha Klallam Tribe is a member of NICS, which provides personnel to the tribal court. The tribe employs a court clerk.

Admission to Practice: Persons over 21 may appear as representatives provided they: apply, pay a fee, become familiar with the tribal constitution and code, take an oath, and are certified as qualified by the chief judge.

Procedures: The Lower Elwha Klallam Court Procedures are set forth in the tribal code.

Record of Proceeding: All proceedings are tape recorded and transcripts are available upon request.

Appellate Procedures: Appeals are heard by an NICS appellate panel. Rules of appellate procedure are set forth in the Lower Elwha Klallam Court Procedures Ordinance, Section VII.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 4/29/68, as amended by Amendment I 6/3/76.

Tribal Court authorized by Tribal Law and Order Code.

Code/Local Ordinances: The tribal code contains ordinances governing criminal, fishing, juvenile, youth, and animal control matters. The code is available from the court clerk upon request.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge may also have discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

There are no formal written agreements concerning the mutual recognition of court judgments with other jurisdictions. Tribal police are cross-deputized as county sheriffs. The tribe contracts with Clallam County Detention Center for adult detention.

LUMMI INDIAN NATION

TRIBAL OFFICE: Lummi Indian Nation, 2616 Kwina Road, Bellingham, WA 98226 (Whatcom County); (206) 734-8180; Chair: Henry Cagey.

TRIBAL ORGANIZATION: Lummi Indian Business Council, 11 members, 3 year term of office. Tribal membership (1992): 3,138.

JUDICIAL OFFICE: Court of the Lummi Nation, 2616 Kwina Road, Bellingham, WA 98226; (206) 734-9231; Chief Judge: Charles D. Finkbonner.

CASELOAD:

<u>BIA (1983)</u>		<u>TRIBE (1991)</u>	
Criminal	308	Criminal	933
Civil	69	Civil	160
Juvenile	166	Juvenile	187
ICWA	17	ICWA	12
Other	0	Traffic	298
Total	560	Total	1,590

GENERAL COURT INFORMATION:

Facilities: The tribal court facilities include one courtroom two administrative offices, and prosecutor's office. The tribe contracts with a neighboring county for detention of adult offenders.

Personnel: The tribal court staff includes one part-time judge, a court administrator, two clerks, one prosecutor, and one compliance officer.

Admission to Practice: Professional attorneys and lay counsel may appear before the tribal court provided they: are members of the Reservation Court Bar; have taken a spokesman oath; and have paid a fee.

Procedures: The tribal code provides for written rules of procedures, in addition to the provisions existing in the Law and Order Code.

Record of Proceeding: The court clerk maintains an audio record of all court proceedings.

Appellate Procedures: Currently supplied by NICS.

SOURCES OF LAW:

Constitution: Tribal Constitution, revised and approved 4/10/70. Tribal Court authorized at Article VI, section 1(k).

Code/Local Ordinances: The tribal court exercises jurisdiction over Indians in all legal matters, including civil and criminal jurisdiction, traffic violations, juvenile matters, and fish and game disputes. The court exercises jurisdiction over non-Indians in civil matters.

AGREEMENTS WITH OTHER JURISDICTIONS:

The tribe had made no formal arrangements with non-Indian judicial systems for judgment recognition, extradition, or cross-deputization. The tribal court generally recognizes state and county support orders, creditor claim judgments, and other requests. The tribe has a formal mutual aid agreement with the County Sheriff, contractual agreements for incarceration and dispatch with local jurisdictions, and an MOA for the investigation and prosecution of child abuse cases with county, state, and federal governments.

MAKAH INDIAN TRIBE

TRIBAL OFFICE: Makah Indian Tribe, P. O. Box 115, Neah Bay, WA 98357 (Clallam County); (206) 645-2205, ext. 445; Chair: Donald Johnson.

TRIBAL ORGANIZATION: Makah Indian Tribal Council, 5 members, 3 year term of office. Indian Population (BIA 1985) 919.

JUDICIAL OFFICE: Makah Tribal Court, P. O. Box 192, Neah Bay, WA 98357; (206) 645-2727;
Chief Judge: Jean Vitalis.

CASELOAD:

BIA (1983)

Criminal	228
Civil	22
Juvenile	45
ICWA	79

**TRIBE
(75% 1992)**

Criminal	120
Civil	20
Juvenile & ICWA	20

Other	75
Total	449

GENERAL COURT INFORMATION:

Facilities: The tribal court's facilities include a courtroom, clerk's office, and jail.

Personnel: The court staff includes one judge, a court administrator, one juvenile probation office, and one prosecutor.

Admission to Practice: Attorneys and lay counsel must file an affidavit stating familiarity with the tribal code, take an oath, and pay a fee.

Procedures: Court procedures are included in the law and order code, and available from the court clerk.

Record of Proceeding: Proceedings are tape recorded. The court provides transcription for a fee or the party may audit the tapes on court premises.

Appellate Procedures: Appeals are heard by a pro tempore judge or other tribal court judge. The judge determines appeals on the record, and may request brief. Parties may provide argument.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 5/16/36.
Tribal Court authorized at Article VI, Section 1(i).

Code/Local Ordinances: Law and Order Code, revised 1989, includes misdemeanor criminal, juvenile, exclusion, and substantive and procedural civil provisions. Separate ordinances govern fishing matters. Portions of the RCW are adopted into the code for traffic infractions. The Code can be obtained from the court administrator for a fee.

Customary Law: The court may consider law but procedures for its use are not established.

AGREEMENTS WITH OTHER JURISDICTIONS:

The tribal court may recognize state and county support orders, extradition requests and creditor claim judgments following a hearing before the court. The tribe has entered into a cross-deputization agreement with the Clallam County Sheriff's Office.

MUCKLESHOOT INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Muckleshoot Indian Tribe, 39015 172nd St. SE, Auburn, WA 98002 (King County); (206) 939-3311; Chair: Virginia Cross.

TRIBAL ORGANIZATION: Muckleshoot Indian Tribal Council, 9 members, 3 year term of office. Indian Population (BIA 1985): 2,392.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	10	Criminal	8
Civil	0	Civil	6
Juvenile	14		
Other	0	<u>NICS (FY 1991)</u>	
Total	24	Criminal	19
		ICWA	0

GENERAL COURT INFORMATION:

Facilities: The tribal facilities include a courtroom. No current jail facilities are available.

Personnel: The tribal court contracts with NICS for judicial services. The tribe employs one court clerk.

Admission to Practice: Lay counsel may practice before the court. All applicants must be familiar with the tribal code, pay a fee and take an oath.

Procedures: Court procedures are provided for in the Tribal Code.

Record of Proceeding: The clerk keeps tape recordings and minutes of all proceedings. Copies are available with permission of the judge.

Appellate Procedures: Appeals are heard by an NICS panel. Appellate procedures are set forth in the Muckleshoot Tribal Code.

SOURCES OF LAW:

Constitution: Tribal Constitution approved 5/13/36 as amended.
Tribal Court authorized by Tribal Constitution and Bylaws, Article VI, Section 1(k).

Code/Local Ordinances: The tribal code contains provisions for criminal offenses, fishing matters, zoning, business licensing & revenue, exclusion, gambling, youth code, housing, paternity, motor vehicle licensing, fireworks, tobacco, liquor, tribal enterprises, hunting, and civil, criminal and appellate procedures. The court also exercises jurisdiction over Indian juveniles, although there is no separate juvenile arm of the court system.

AGREEMENTS WITH OTHER JURISDICTIONS:

Tribal court judgments are recognized by other NICS courts.

NISQUALLY INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Nisqually Indian Tribe, 4820 She-Nah-Num Drive SE, Olympia, WA 98503 (Thurston County); (206) 456-5221; FAX (206) 456-5280; Chair: Dorian Sanchez.

TRIBAL ORGANIZATION: Nisqually Indian Community Council, 5 members, 2 year term of office. Indian Population (BIA 1985): 1,726.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	5	Criminal	11
Civil	0	Civil	0
Juvenile	5		
ICWA	15	<u>NICS (FY 1991)</u>	

Other	7	Criminal	14
Total	32	ICWA	3

GENERAL COURT INFORMATION:

Facilities: Court hearings are held in the police building complex. Detention facilities are contracted for with Thurston County.

Personnel: The tribal court contracts with the NICS for judicial services.

Admission to Practice: Professional attorneys and lay counsel may appear before the court. The tribe's Law and Order Code reserves to the court the right to adopt standards for representation as needed to insure effective representation.

Procedures: Written court procedures are provided for in the Tribe's Law and Order Code.

Record of Proceeding: The court clerk keeps tape recordings of all trials.

Appellate Procedures: Appellate proceedings are provided for in the Tribe's Law and Order Code. The Nisqually Tribal Court of Appeals consists of all tribal judges except the trial judge.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 9/9/46.
Tribal Court approved 9/9/46.

Code/Local Ordinances: The tribal code contains provisions addressing criminal offenses, exclusion, housing, fishing, tobacco, liquor, domestic relations, youth code, employment, traffic and gaming. The code also provides rules of civil, criminal and appellate procedure, and extradition procedures.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

Tribal court judgments are recognized by other NICS courts.

NOOKSACK INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Nooksack Indian Tribe, P. O. Box 157, Deming, WA 98244 (Whatcom County); (206) 592-5176; FAX (206) 592-5721; Chair: Hubert Williams.

TRIBAL ORGANIZATION: Nooksack Indian Tribal Council, 8 members, 2 year term of office. Indian Population (BIA 1985): 856.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	4	Criminal	35
Civil	1	Civil	0
Juvenile	0		
Other	0	<u>NICS (FY 1991)</u>	
Total	5	Criminal	1
		ICWA	2

GENERAL COURT INFORMATION:

Facilities: The court facilities include a courtroom, law library and clerk's office.

Personnel: The tribal court contracts with the NICS for judicial services.

Admission to Practice: Attorneys and lay counsel may appear upon application, payment of fee, familiarity with the tribal constitution and code, and oath.

Procedures: The tribal code contains court procedures.

Record of Proceeding: Tape or stenographic recordings are kept of all testimony and arguments. Parties may obtain transcriptions for a fee.

Appellate Procedures: Appeals are heard by an NICS appellate panel. The tribal code contains written appellate procedures.

SOURCES OF LAW:

Constitution: Tribal constitution approved 9/24/73.

Tribal Court authorized by Tribal Constitution & Bylaws, Article VI, section 1(h), section 2(a) and (b).

Code/Local Ordinances: The tribal code contains ordinances governing youth law, criminal matters, fishing, hunting, housing, liquor, gambling, business licensing, animal control, sale of tobacco, dimethyl sulfoxide control, fireworks control, recall petitions, and exclusion. The code also contains civil, criminal, and appellate rules of court.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge may also have discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

The tribe has no formal written agreements with other jurisdictions concerning the mutual recognition of court judgments.

PORT GAMBLE S'KLALLAM TRIBE

TRIBAL & JUDICIAL OFFICES: Port Gamble S'Klallam Tribe, P. O. Box 280, Kingston, WA 98346 (Kitsap County); (206) 297-2646, 464-7281; FAX (206) 297-7097; Chair: Gerald (Jake) Jones.

TRIBAL ORGANIZATION: Port Gamble S'Klallam Business Committee, 5 members, 1 year term of office. Indian Population (BIA 1985): 534.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	6	Criminal	86
Civil	8	Civil	2
Juvenile	0		
Fishing	6	<u>NICS (FY 1991)</u>	

Traffic	18	Criminal & Civil	50
Total	38	ICWA	0

GENERAL COURT INFORMATION:

Facilities: The court facilities include a courtroom, judges' chambers, jury room and a law library.

Personnel: The court staff consists of a part-time clerk who also serves as an Indian Child Welfare worker, and a part-time judicial officer/associate judge.

Admission to Practice: To practice before the tribal court an individual must pay a fee, be approved by the tribal judge, and take an oath. Both professional attorneys and lay counsel may practice before the court.

Procedures: Title I of the Tribal Code contains court procedures.

Record of Proceeding: Tape recordings and written records.

Appellate Procedures: Appeals are heard by an NICS appellate panel. The tribal code contains appellate procedures.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 9/7/39, amended by Amendment II, 11/17/80.

Tribal Court authorized by Tribal Constitution and Bylaws, Article IV, Section 1(f) as amended.

Code/Local Ordinances: The tribal code contains provisions for juvenile law, traffic, and land assignment and eviction, elections, firewood, fireworks, liquor, family protection, fishing and hunting. The code also contains court procedures.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

There are no formal agreements between the court and surrounding jurisdictions concerning the mutual recognition of court judgments. Informally, the tribal court recognizes state and county support orders, extradition requests, and creditor claim

judgments. The tribe has a tribal/state agreement with DSHS for foster home licensing.

PUYALLUP TRIBE OF INDIANS

TRIBAL OFFICE: Puyallup Tribe of Indians, 2002 E. 28th St., Tacoma, WA 98404 (Pierce County); (206) 597-6368.

TRIBAL ORGANIZATION: Puyallup Tribal Council, 7 members, 3 year term of office. Indian Population (Tribal Clinic 1991): est. 12,000.

JUDICIAL OFFICE: Puyallup Tribal Court, 2002 E. 28th St., Tacoma, WA 98404; (206) 593-0211;
Chief Judge: Dennis L. Nelson.

CASELOAD:

<u>(1982)</u>		<u>TRIBE (1991)</u>	
Criminal	151	Criminal	45
Civil	21	Civil	256
Juvenile	13	Other	85
Other	7	Total	386
Total	192		

GENERAL COURT INFORMATION:

Facilities: The court's facilities include one courtroom and a clerk's office. The tribe operates a tribal jail.

Personnel: The tribal court staff include the chief judge, court administrator, children's court counselor, prosecutor, public defender, and guardian ad litem.

Admission to Practice: Attorneys and lay counsel must pay a fee, take an oath, and be familiar with the tribal Constitution, By-Laws and Code.

Procedures: The tribal code contains civil and criminal procedures.

Record of Proceeding: proceedings are tape recorded. Tape copies are available for a fee and parties must prepare transcription.

Appellate Procedures: The Tribal Council or an appointed three-judge panel hears appeals. Appellate review is based on the trial record and briefs and argument may be requested. The tribal code contains appellate procedures.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 5/13/36, as amended.
Tribal Court authorized at Article VI, Section 1(k).

Code/Local Ordinances: The tribal code contains provisions for criminal offenses, traffic, children's code, guardianship, probate, fisheries, domestic law, business, fireworks, gaming, elections, ethics, hunting, employment, eviction, and enrollment. The code also contains court procedures.

AGREEMENTS WITH OTHER JURISDICTIONS:

The tribal court has an informal agreement with Pierce County to recognize vital statistics (name change, divorce, adoption, marriage) and a mutual recognition of warrants and extradition orders with Pierce County and the City of Tacoma. The tribe has entered into cross-deputization agreements with Pierce County and the cities of Tacoma, Milton, and Fife.

QUILEUTE INDIAN TRIBE

TRIBAL OFFICE: Quileute Indian Tribe, P. O. Box 279, La Push, WA 98350 (Clallam County); (206) 374-6163; Chairperson: James Jaime.

TRIBAL ORGANIZATION: Quileute Tribal Council, 5 members, 3 year term of office. Indian Population: 736.

JUDICIAL OFFICE: Quileute Tribal Court, P. O. Box 69, La Push, WA 98350;
(206) 374-61636;
Chief Judge: Jean Vitalis.

CASELOAD:

<u>BIA (1983)</u>		<u>TRIBE (FY 1989)</u>	
Criminal	52	Criminal	106
Civil	8	Civil	21
Juvenile	3	Juvenile	6
Other	29	ICWA	3
Total	92	Other	11
		Appeals	2
		Total	149

GENERAL COURT INFORMATION:

Facilities: The court facilities include a prosecutor's office, clerk's office and a courtroom.

Personnel: The court staff includes one chief judge, two pro tempore judges, the chief clerk, an assistant clerk, a prosecutor/probation officer, and a domestic violence counselor.

Admission to Practice: Attorneys and lay counsel may practice before the court, once they are admitted to the tribal bar. To be admitted before the Bar, a person must: (1) be of good moral character, (2) be 18 years or older; (3) be approved by the tribal court; (4) read and understand the tribal code; (5) sign and take the spokesman's oath; and (6) pay the tribal court admission fee.

Procedures: Rules of court procedure are available from the court clerk.

Record of Proceeding: Proceedings are taped, and tapes are available from the court clerk.

Appellate Procedures: The Law and Order Court authorizes an appeal process. NICS provides appellate services.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 11/11/36.
Tribal Court authorized by Tribal Constitution and Bylaws, Article VI, section 1(l).

Code/Local Ordinances: The court exercises civil and criminal jurisdiction, and is now establishing a separate juvenile court system. The tribal code contains provisions for domestic violence, fishing and hunting, building and traffic control. There are no limits in civil monetary judgments. The Code may be obtained from the court clerk for a \$10 fee.

AGREEMENTS WITH OTHER JURISDICTIONS:
Foreign judgments may be recognized upon consideration by the court.

QUINAULT INDIAN NATION

TRIBAL OFFICE: Quinault Indian Nation, P. O. Box 198, Taholah, WA 98587 (Grays Harbor and Jefferson Counties); (206) 276-8211; Chair: Joseph DeLaCruz.

TRIBAL ORGANIZATION: Quinault Business Committee, 11 members, 3 year term of office. Indian Population (BIA 1985) 2,013.

JUDICIAL OFFICE: Quinault Tribal Court, P. O. Box 99, Taholah, WA 98587; (206) 276-8211 ext. 222;
Chief Judge: Edythe E. Chenois.

CASELOAD:

<u>(1983)</u>	
Criminal	83
Civil	70
Juvenile	60
ICWA	39
Other	98
Total	350

GENERAL COURT INFORMATION:

Facilities: The court's facilities include a courtroom, a clerk's office, judge's chambers, and a public defender's and prosecutor's office. The tribe operates a tribal jail.

Personnel: The court staff includes one judge and one clerk of court, and a part-time pro tempore judge.

Admission to Practice: Attorneys and lay counsel must review the tribal code and pay a business license fee.

Procedures: Rules of court set forth in the tribal code are available.

Record of Proceeding: Tape recorded. Certified transcripts are available through the court for a fee or the parties may provide their own transcription.

Appellate Procedures: Appeals are heard by a three-judge panel composed of other tribal judges. The panel may determine the appeal on the record, request briefs, and hear argument or order a *de novo* hearing.

SOURCES OF LAW:

Constitution: Tribal Constitution, revised and adopted 3/22/75.
Tribal Court authorized at Article V, Section 3(b).

Code/Local Ordinances: The code contains criminal and civil provisions. The tribal court exercises jurisdiction over Indians in all substantive criminal and civil legal matters and over non-Indians in civil matters.

Reported Decisions: No report of decisions.

Customary Law: Traditional law may be employed in children's court and fishing case.

AGREEMENTS AND OTHER JURISDICTIONS:

The tribal court may enforce a county or state judgment or order following approval by the chief judge. The state recognizes tribal court support orders and extradition requests.

SAUK-SUIATTLE INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Sauk-Suiattle Indian Tribe, 5318 Chief Brown Lane, Darrington, WA 98241 (Snohomish County); (206) 435-8366, 436-0131; FAX (206) 436-1511; Chair: Lawrence Joseph.

TRIBAL ORGANIZATION: Sauk-Suiattle Tribal Council, 7 members, 3 year term of office. Indian Population (BIA 1985): 260.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	1	Criminal	16
Civil	0	Civil	0
Juvenile	0		
Other	0	<u>NICS (FY 1991)</u>	
Total	1	Criminal & Civil	12
		ICWA	6

GENERAL COURT INFORMATION:

Facilities: The Sauk-Suiattle Tribal Court utilizes the court facilities of the Swinomish Tribe.

Personnel: NICS provides all necessary court personnel.

Admission to Practice: Any person may practice upon taking the Advocate's Oath.

Procedures: The Law and Order Code contains court procedures.

Record of Proceeding: The court clerk maintains a general record of all proceedings.

Appellate Procedures: The Law and Order Code contains appellate procedures.

SOURCES OF LAW:

Constitution: Tribal Constitution approved 9/17/75 amended 7/24/84.
Tribal Court authorized by Tribal Constitution, Article III, section 1(i).

Code/Local Ordinances: The tribal code contains provisions for criminal offenses, arts and crafts, elections, enrollment, exclusion, family law, fishing, hunting, and utilities and environment.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

None reported.

SHOALWATER BAY INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Shoalwater Bay Indian Tribe, P. O. Box 130, Tokeland, WA 98590 (Pacific County); (206) 267-6766; FAX (206) 267-6778;
Chair: Doug Davis.

TRIBAL ORGANIZATION: Shoalwater Bay Tribal Council, 5 members, 2 year term of office. Indian Population (BIA 1985): 64.

CASELOAD:

No cases reported.

GENERAL COURT INFORMATION:

Facilities: The tribal court uses the tribal administration building for all judicial matters.

Personnel: The tribal court contracts with NICS.

Admission to Practice: There are no written requirements concerning the admission to practice before the court.

Procedures: The tribal code contains court procedures.

Appellate Procedures: Appeals are heard by an NICS appellate panel.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 3/10/71 and amended 2/11/75 by Amendments I and II.

Tribal Court authorized pursuant to CFR Title 25, Chapter 1, part 11.

Code/Local Ordinances: The tribal code contains provisions for criminal offenses, traffic, exclusion, housing, elections, zoning, building code, business licensing, liquor control, fireworks, gaming, enrollment, and family law. The code also contains court procedures.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

There are no formal written agreements for the mutual recognition of court judgments with surrounding counties or the state of Washington. Tribal court judgments are recognized by other participating tribes of the Northwest Intertribal Court System.

SKOKOMISH INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Skokomish Tribe, North 80, Tribal Center Rd., Shelton, WA 98584 (Mason County); (206) 426-4232; FAX (206) 877-9643; Chair: Denny Hurtado.

TRIBAL ORGANIZATION: Skokomish Tribal Council, 7 members, 4 year term of office. Indian Population (BIA 1985) 1,029.

CASELOAD:

BIA (1983)

Criminal

NICS (FY 1990)

28 Criminal

30

Civil	5	Civil	0
Juvenile	6		
ICWA	253	<u>NICS (FY 1991)</u>	
Other	64	Criminal & Civil	27
Total	356	ICWA	5

GENERAL COURT INFORMATION:

Facilities: The court facilities include a courtroom and jury room.

Personnel: The tribal court staff includes a part-time prosecutor. Other staff is provided by NICS.

Admission to Practice: Persons 18 years or older may appear as representatives upon application, payment of an addition fee, familiarity with the tribal constitution, ordinances, and court rules, certification by the chief judge, and oath.

Procedures: Volume 8 of the Skokomish Tribal Code contains court procedures.

Record of Proceeding: The court clerk maintains verbatim records of all proceedings. Transcripts are available upon request.

Appellate Procedures: Appeals are heard by an NICS appellate panel. The tribal code contains rules of appellate procedure.

SOURCES OF LAW:

Constitution: Tribal Constitution, revised and approved 3/17/80.
Tribal Court authorized by revised Tribal Constitution, Article V, section 1(k).

Code/Local Ordinances: The tribal code contains ordinances governing housing, tribal enterprises, fishing, hunting, youth matters, enrollment, elections, seafood production, liquor control, consulting services, forestry management, tobacco control, fireworks sales and safety, tax and licensing, and environmental protection. The code also contains court procedures.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

None reported.

SPOKANE TRIBE

TRIBAL OFFICE: Spokane Tribe, P. O. Box 385, Wellpinit, WA 99040 (Stevens County); (509) 258-4581;
Chair: Bruce Wynne.

TRIBAL ORGANIZATION: Spokane Business Council, 5 members, 3 year term of office. Indian Population (BIA 1985): 1,961.

JUDICIAL OFFICE: Spokane Tribal Court, P. O. Box 225, Wellpinit, WA 99040; (509) 258-7717;
Chief Judge: Richard Wynecoop.

CASELOAD:

<u>BIA (1983)</u>		<u>TRIBE (4/89 - 4/90)</u>	
Criminal	201	Criminal	313
Civil	103	Civil	219
Juvenile	77	Juvenile	107
ICWA	51	Domestic	44
Other	117	Marriage	6
Total	549	Total	689

GENERAL COURT INFORMATION:

Facilities: The tribal court facilities include a courtroom, clerk's office, judges' chambers, and law library. The tribe operates a tribal jail.

Personnel: The court staff includes one chief judge, two associate judges, and one clerk of court.

Admission to Practice: Attorneys and lay counsel must be familiar with the tribal code, pay a fee, and take an oath.

Procedures: Rules of procedure are available from the court clerk.

Record of Proceeding: Proceedings are tape recorded. Transcripts or copies of tapes are available for a fee.

Appellate Procedures: An appellate panel is composed of three visiting judge who review the file and tapes for errors of law.

SOURCES OF LAW:

Constitution: Tribal Constitution, revised and approved 4/11/80. Tribal Court authorized at Article VIII(a).

Code/Local Ordinances: Spokane Law and Order Code contains criminal and civil provisions, including wildlife regulations, and a juvenile code. The code is available from the court clerk for a \$75 fee.

AGREEMENTS WITH OTHER JURISDICTIONS:

The tribal court recognizes state and county support order, extradition requests, and creditor claim judgments following a hearing in tribal court. The tribe has extradition arrangements with Stevens and Lincoln Counties.

SQUAXIN ISLAND INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Squaxin Island Indian Tribe, SE 70 Squaxin Lane, Shelton, WA 98584 (Mason County); (206) 426-9781; Chair: Dave Lopeman.

TRIBAL ORGANIZATION: Squaxin Island Tribal Council, 5 members, 3 year term of office. Indian Population (BIA 1985): 1,092.

CASELOAD:

BIA (1983)

Criminal

NICS (FY 1990)

26 Criminal

34

Civil	23	Civil	10
Juvenile	2		
ICWA	1	<u>NICS (FY 1991)</u>	
Other	18	Criminal & Civil	53
Total	70	ICWA	18

GENERAL COURT INFORMATION:

Facilities: The court facilities include a courtroom and clerk's office.

Personnel: The tribal court contracts with the NICS for judicial services and employs two court clerks.

Admission to Practice: Attorneys and lay counsel may practice in the court after submitting a written application approved by the judge, payments of a fee, and oath.

Procedures: The tribal Law and Order Code contains written court rules and procedures.

Record of Proceeding: Tape recordings and transcripts, upon request.

Appellate Procedures: Appellate rules and procedures are set forth in the Squaxin Island Court Procedures Ordinance, Section VII.

SOURCES OF LAW:

Constitution: Tribal Court authorized by Tribal Constitution and Bylaws, Article III, Section 1(h) and (i).

Code/Local Ordinances: The tribal code contains ordinances governing criminal offenses, hunting and fishing, housing, youth matters, traffic, animal control, exclusion, tidelands and trespass.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

There are no formal written agreements with surrounding jurisdictions concerning the mutual recognition of court judgments.

STILLAGUAMISH INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Stillaguamish Indian Tribe, 3439 Stoluckguamish Lane, Arlington, WA 98223 (Snohomish County); (206) 652-7362, 435-9338; FAX (206) 435-2204; Chair: Gail Gregor.

TRIBAL ORGANIZATION: Stillaguamish Tribal Council.

CASELOAD:

NICS (FY 1991)

Criminal & Civil
ICWA

6
0

GENERAL COURT INFORMATION:

Facilities: Court proceedings are held in the library-council room.

Personnel: The tribal court employs one court clerk (telephone (206) 435-2755). NICS provides all other court personnel.

Admission to Practice: Attorneys must be approved by the sitting judge.

Record of Proceeding: Tape recorded.

Appellate Procedures: Appeals are heard by the tribal council.

SOURCES OF LAW:

Constitution: Tribal Constitution.

Code/Local Ordinances: The tribal court exercises jurisdiction over fishing violations.

AGREEMENTS WITH OTHER JURISDICTIONS:

None reported.

SUQUAMISH TRIBE

TRIBAL OFFICE: Suquamish Tribe, P. O. Box 498, Suquamish, WA 98329 (Kitsap County); (206) 598-3311; President: Georgia George.

TRIBAL ORGANIZATION: Suquamish Tribal Council, 7 members, 3 year term of office. Tribal membership (1992): 704.

JUDICIAL OFFICE: Suquamish Tribal Court, P. O. Box 1021, Suquamish, WA 98392; (206) 598-4334, 598-3440; Chief Judge: Iver C. Mcdougall.

CASELOAD:

<u>BIA (1983)</u>		<u>FY 1987</u>	
Criminal	26	Total	104
Civil	7		
Juvenile	5	<u>FY 1988</u>	
ICWA	6	Total	92
Other	7		
Total	51	<u>FY 1989</u>	
		Total	59

GENERAL COURT INFORMATION:

Facilities: The tribe has recently constructed a new courthouse. Offenders are incarcerated in Jefferson County or Puyallup tribal jails.

Personnel: The court has three part-time judges, one clerk, two prosecutors, two public defenders, and a part-time court solicitor who assists the court.

Admission to Practice: Upon written motion. Applicants must show knowledge of the tribal code and court rules and some knowledge of Suquamish culture. State-licensed attorneys must also show knowledge of federal Indian law.

Procedures: The tribal code includes written rules of procedure. Jury trials are held at the Tribal Center on Saturdays. In civil matters, the court may, in the absence of statute, rely on tribal custom as proven by expert, or upon the common law of any state.

Record of Proceeding: Proceedings are tape recorded. Transcripts are available from the court for a fee.

Appellate Procedures: The court contracts with NICS for appeals. Appeals are decided on the record by a panel of three judges.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 7/2/65.

Power to create Court vested in tribal Council by Article III, Section (i) as amended.

Code/Local Ordinances: The Suquamish Tribal Code includes provisions for criminal, civil, juvenile and administrative matters. A copy of the code may be obtained from the court clerk.

AGREEMENTS WITH OTHER JURISDICTIONS:

The tribe has provision for transfer of cases to other jurisdictions, but no provision for recognition of judgments from other jurisdictions.

SWINOMISH TRIBAL COMMUNITY

TRIBAL & JUDICIAL OFFICES: Swinomish Tribal Community, P. O. Box 817, 1789 Reservation Road, LaConner, WA 98257 (Skagit County); (206) 466-3163, 464-7511; Chair: Robert Joe, Sr.

TRIBAL ORGANIZATION: Swinomish Indian Senate, 11 members, 5 year term of office. Indian Population (BIA 1985): 624.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	42	Criminal	269
Civil	4	Civil	12
Juvenile	0		
Other	24	<u>NICS (FY 1991)</u>	
Total	70	Criminal & Civil	253
		ICWA	14

GENERAL COURT INFORMATION:

Facilities: The court is located on the Swinomish reservation and includes a courtroom, clerk's office, chambers, and prosecutor's office.

Personnel: The tribal court staff includes two full-time court clerks, and a part-time defender. All other court personnel provided by the NICS.

Admission to Practice: Attorneys must take an oath for admission to the Tribal Bar.

Procedures: The tribal code contains court procedures. Additional information can be obtained from the court clerk.

Record of Proceeding: Tape recordings and minutes.

Appellate Procedures: NICS provides appellate services.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 1/27/36 as amended by Amendment II 4/27/66.

Tribal Court authorized by Tribal Constitution, Article VI, section 1(k).

Code/Local Ordinances: The Swinomish Tribal Code provides for criminal offenses, traffic, fish and game, exclusion, animal control, youth code, fireworks control, zoning, junk vehicles, eviction, drug paraphernalia, utilities ordinance, and water resources protection. The code also contains court procedures.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

The Swinomish Tribe has no jurisdictional agreements with surrounding governments.

THE TULALIP TRIBES

TRIBAL & JUDICIAL OFFICES: The Tulalip Tribes, 6700 Totem Beach Road, Marysville, WA 98270 (Snohomish County); (206) 653-4585; Chair: Stanley G. Jones, Sr.

TRIBAL ORGANIZATION: Tulalip Board of Directors, 7 members, 3 year term of office. Indian Population (BIA 1985): 1,099.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	21	Criminal	14
Civil	3	Civil	0
Juvenile	0		
Other	0	<u>NICS (FY 1991)</u>	
Total	24	Criminal & Civil	64
		ICWA	0

GENERAL COURT INFORMATION:

Facilities: The court facilities include a clerk's office and prosecutor's office.

Personnel: NICS provides court personnel to the Tulalip Tribal Court.

Admission to Practice: Lay counsel and attorneys admitted to practice before state courts may practice in the Tulalip Tribal Court.

Procedures: The Tulalip Law and Order Code contains court rules.

Record of Proceeding: Tape recordings and transcripts, upon request.

Appellate Procedures: Appellate proceedings are provided for in the tribal Law and Order Code.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 1/24/36 as amended.
Tribal Court authorized by Tribal Constitution, Article VI, section 1(k).

Code/Local Ordinances: The tribal code contains provisions governing, public law, zoning, criminal offenses, fishing, timber, employment, construction, workers compensation, hunting, and campground regulations. The code also contains court rules and procedures.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

None reported.

UPPER SKAGIT INDIAN TRIBE

TRIBAL & JUDICIAL OFFICES: Upper Skagit Indian Tribe, 2284 Community Plaza, Sedro Wooley, WA 98284 (Skagit County); (206) 856-5501; FAX (206) 856-3175; Chair: Floyd Williams.

TRIBAL ORGANIZATION: Upper Skagit Tribal Council, 7 members, 3 year term of office. Indian Population (BIA 1985): 553.

CASELOAD:

<u>BIA (1983)</u>		<u>NICS (FY 1990)</u>	
Criminal	27	Criminal	43
Civil	0	Civil	15
Juvenile	0		

Other	0	<u>NICS (FY 1991)</u>	
Total	27	Criminal & Civil ICWA	63 3

GENERAL COURT INFORMATION:

Facilities: Court is conducted once a month or more often if needed in the community center on the Upper Skagit reservation.

Personnel: The tribal court staff includes one part-time court clerk and one part-time deputy prosecutor. Other court personnel are supplied by NICS.

Admission to Practice: Attorneys and lay counsel may practice upon admission to the Tribal Bar.

Procedures: The tribal code contains court procedures.

Record of Proceeding: The court clerk keeps a record of proceedings.

Appellate Procedures: The tribal code specifies appellate procedures.

SOURCES OF LAW:

Constitution: Tribal Constitution, approved 12/4/74 as amended by Amendment II 4/8/77.

Tribal Court authorized by Tribal Constitution, Article I, section 1(p).

Code/Local Ordinances: The tribal code contains provisions for animal control, children's code, fishing, elections, emergency traffic, enrollment, fireworks, hunting, housing ordinance, criminal offenses, exclusion, utility code, and a youth drug and alcohol ordinance.

Customary Law: The tribal code may codify or refer to customary practices. The sitting judge has discretion to consider and apply custom in individual cases.

AGREEMENTS WITH OTHER JURISDICTIONS:

The Upper Skagit Tribe has no formal agreements with the state of Washington and surrounding counties.

YAKIMA INDIAN NATION

TRIBAL OFFICE: Yakima Indian Nation, P. O. Box 151, Toppenish, WA 98948 (Yakima and Klickitat Counties); (509) 865-5121; Chair: Wilferd Yallup.

TRIBAL ORGANIZATION: Yakima Tribal Council, 14 members, 4 year term of office. Tribal membership (1992): 8,315.

JUDICIAL OFFICE: Yakima Tribal Court, P. O. Box 151, Toppenish, WA 98948; (509) 865-5121;
Chief Judge: David C. Ward.

CASELOAD:

<u>BIA (1983)</u>		<u>CASELOAD (FY 1989)</u>	
Criminal	2,228	Criminal	2,762
Civil	471	Civil	935
Juvenile	0	Juvenile Criminal	283
Other	0	Juvenile Civil	90
Total	2,699	Probate Cases	3
		Total	4,073

GENERAL COURT INFORMATION:

Facilities: The court's facilities includes two courtrooms, jury room, two clerk's office, two judge's chambers and a court administrator's office. The tribe operates a tribal jail, which has separate facilities for juveniles.

Personnel: The court staff includes the chief judge, one associate judge, one juvenile judge, three clerks and one court administrator.

Admission to Practice: Lay counsel may practice if enrolled Yakimas. Attorneys and lay counsel must pay a fee and take an oath.

Procedures: The tribal code contains procedural rules for the court.

Record of Proceeding: Proceedings are tape recorded. Copies are provided to parties for a fee.

Appellate Procedures: An appellate panel decides appeals on the record and may request briefs and hear argument. The panel decides appeals for errors of law only. Appellate procedures are available through the clerk of the court.

SOURCES OF LAW:

Constitution: Tribal Constitution, General Council Resolution 2/18/44, T-38-56 and T-10-61.

Tribal Court authorized by Yakima Law and Order Code approved 12/16/53.

Code/Local Ordinances: The Revised Yakima Code contains provisions governing criminal offenses, fish and game, extradition, business licensing, range and livestock, exclusion, zoning, motor vehicles, water and hydraulics, employment, and children's court.

Reported Decisions: Appellate decisions are available from the court clerk.

AGREEMENTS WITH OTHER JURISDICTIONS:

The court has good relations with several nearby tribal courts which may recognize Yakima's judgments. The Yakima Tribal Court will recognize the judgments of other jurisdictions pursuant to Title 27 of the Revised Yakima Code.

VIII. RECOMMENDED READING

The following titles can aid a practitioner seeking to understand Indian law and tribal courts. Brief descriptions are provided for some works.

1. **Books**

William Canby, *Indian Law in a Nutshell* (West Publishing, 1988 2d ed.).

Felix Cohen, *Handbook of Federal Indian Law*.

This is the seminal work on Indian law prepared by the first solicitor of the BIA. There are five editions. The original was published in 1942, and reproduced in 1971 and 1986. The 1982 edition is an updated version of the original work, prepared by a panel of Indian law scholars. The 1957 editions was revised by the Dept. of the Interior, and lacks adequate scholarship.

David Getches & Charles Wilkinson, eds., *Federal Indian Law, Cases and Materials*, 2d Ed. (West 1986).

Ralph W. Johnson, ed., *Indian Tribal Codes* (in microfiche), Marian Gould Gallagher Law Library Research Series. No. 5 (Univ. of Wash. 1988).

Tribal codes and constitutions from around the United States.

National American Indian Court Judges Ass., *Indian Courts and the Future* (1978).

Monroe Price and Robert Clinton, eds., *Law and the American Indian, Readings, Notes and Cases*, 2d ed. (Mitchie 1983).

2. Periodicals

American Indian Lawyer Training Program, Inc., *Indian Law Reporter*.

3. Articles

Robert N. Clinton, "*Criminal Jurisdiction Over Indians Lands: A Journey Through a Jurisdictional Maze*," 18 Arizona Law Review 503 (1976).

Analysis of various criminal laws, Federal, state and tribal. Pre-*Oliphant* and *Duro*, and therefore slightly dated.

Elizabeth Dennis, "*Personal and Subject Matter Jurisdiction in the Tribal Court Setting*," (unpublished 1990).

Useful analysis of civil jurisdiction following decisions in *National Farmers Union* and *Iowa Mutual*.

Available in Univ. of Washington Law Library.

Carole Goldberg, "*Public Law 280: The Limits of State Jurisdiction Over Reservation Indians*,"
22 UCLA L. Rev. 535 (1975).

Mike Taylor, "*Modern Practice in the Indian Courts*," 10 University of Puget Sound
Law Review 231
(1987).

¹The information in this section is adapted from Richard L. Davies, "A Survey of Contemporary Tribal Codes," in *Indian Tribal Codes*, R.W. Johnson, ed., and derived from the following sources: *Cohen's Handbook on American Indian Law*, pp. 332-35 (1982 ed.); *Indian Courts and the Future: Report of the NAICJA Long Range Planning Project*, pp. 7-16 D. Getches ed.; Susan Lupton, "American Indian Tribal Codes," 1 *Legal Reference Serv. Q.* 25 (no. 4, 1981).

²25 U.S.C. § 476 (1934).

³Commission on Organization of the Executive Branch of the Government, *Indian Affairs: A Report to Congress* (1949).

⁴467 Stat. 8132 (1953).

⁵18 U.S.C. § 1162, 25 U.S.C. §§ 1311-1326, 28 U.S.C. § 1360 (am. 1976).

⁶25 U.S.C. § 1301-1303.

⁷25 U.S.C. § 1302(9).

⁸25 CFR Part 11.

⁹25 U.S.C. § 1301, *et seq.*

¹⁰25 U.S.C. §§ 1901-1963.

¹¹18 U.S.C. § 1162, 25 U.S.C. §§ 1321-1326, and 28 U.S.C. § 1360.

¹²See *Confederated Tribes of the Colville Reservation v. Washington*, 938 F.2d 146 (1991); *Bryan v. Itasca County*, 426 U.S. 373 (1976); and *Santa Rosa Band of Indians v. Kings County*, 532 F.2d 655 (9th Cir. 1975). See also Goldberg, *Public Law 280: The Limits of State Jurisdiction over Reservation Indians*, 22 UCLA L. Rev. 535 (1975).

¹⁵25 U.S.C. § 1301, *et seq.*

¹⁴*Colville Confederated Tribes v. Beck*, E.D. Washington, No. C-78-76 (Dec. 18, 1978); *Yakima Nation v. Washington*, E.D. Washington, No. 2732 (May 18, 1981). Opinion of Solicitor, Department of Interior, regarding PL 83-280, Nov. 14, 1978, 6 Indian Law Reporter H-1 (1979). See also Cohen (1982) p. 367, and *Washington v. Confederated Bands and Tribes of the Yakima Nation*, 439 U.S. 463 (1979).

¹⁵RCW 37.12.010; *Comenout v. Burdman*, 84 Wash. 2d 192, 525 P.2d 217 (1974).

¹⁶RCW 37.12.

¹⁷*Id.*

¹⁸436 U.S. 49 (1978).

¹⁹435 U.S. 191 (1978).

²⁰495 U.S. 676 (1990).

²¹25 U.S.C. § 1301(2).

²²358 U.S. 217 (1959).

²³411 U.S. 164 (1973).

²⁴450 U.S. 544 (1981).

²⁵492 U.S. 408 (1989).

²⁶471 U.S. 845 (1985).

²⁷480 U.S. 9 (1987).