

TULALIP TRIBAL COURT

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MEMORANDUM

TO: BOARD OF DIRECTORS; NICS; MIKE TAYLOR, RESERVATION ATTORNEY; SHELLY LACY, GENERAL MANAGER; CHERIE ROSS, BEDA?CHELH; CHIEF SMITH, TULALIP POLICE DEPARTMENT; RIC KILMER AND TAMMY BEATTY, PROSECUTOR'S OFFICE; MARTIN NAPEAPI, ADMINISTRATION; LENA HAMMONS, TGA

FROM: TULALIP TRIBAL COURT JUDGES

SUBJECT: 2010 ANNUAL REPORT

DATE: JANUARY 28, 2011

This report covers the Calendar Year January 1, 2010 to December 31, 2010.

I. Annual Summary of Activities.

A. Summary of Caseload.

1. Case Statistics: The total number of criminal filings decreased by 9% over 2009 from 339 new cases to 306. Cases involving Alcohol are down by about 50% but cases involving drugs have remained constant. These numbers continue to be an overall decrease of about 10% from 2006. This is particularly impressive because the number of adult enrolled tribal members continues to increase each year without a substantial increase in new criminal filings. The traffic infractions have increased substantially over a four year period. Since 2006, there has been an 88% increase in the number of traffic infractions processed through tribal court. There was just about a 40% increase between 2009 to 2010. This is primarily because of increased traffic policing in Quil Ceda Village as most of the tickets originate in that area.

Civil case filings were down about 4% in 2010. Thus, overall civil filings remain slightly up over the last four years and remain fairly constant, ranging from a high of 601 to a low of 486 cases. Youth in need of care filings were down about 25% from their all time high in 2009 (there were 85 in 2007, 65 filings in 2008, 94 filings in 2009 and 71 this year). Child support cases were up by about 18% from the number filed in 2009 which is primarily due to the increased activity by the Tulalip Child Support Program. Since the Court began providing Annual Reports in 2006, the following chart demonstrates the five year comparison of

the Court's annual caseload.

YEAR COMPARISON	2006	2007	2008	2009	2010
Criminal	353	311	318	339	306
Traffic	140	260	533	643	1078
Civil	486	601	504	517	493
Total Cases	979	1172	1355	1499	1703
Total Hearings		5084	6674	8360	9690

In 2007 the Court began tracking the total number of hearings held by the Tribal Court each year. In 2007, the Court was holding about 21 hearings per day, in 2008 about 26 per day, in 2009 about 32 hearings per day and in 2010 the Court heard an all time high of 9690 hearings which is about 37 hearings per day. The increase in the number of hearings is partly because of the overall increase in caseload and partially because of the increased complexity of the cases and overall increase in involvement by attorneys. This is at the top end of the number of hearing the Judges can successfully complete. Any further increase will result in either a decrease in services or the addition of judicial staff.

II. ANNUAL STATISTICS.

TULALIP TRIBAL COURT			
ACTIVITY REPORT FOR THE PERIOD			
January Through December 2010			
Type of Cases	Filed	Disposed by Quarter	Total Pending
	Total	Total	
Criminal Alcohol	21	48	28
Criminal Drugs	46	42	28
Criminal Domestic Violence	43	35	16
Criminal Fishing	25	22	16
Criminal General	157	197	160
TOTAL CRIMINAL	306	350	264
TOTAL TRAFFIC	1078	1269	202
Civil Anti-Harassment	24	15	10
Civil Child Support	34	3	104
Civil Child Custody	37	5	207
Civil Divorce	28	10	107
Civil Employment	22	25	32
Civil Gaming	24	10	27
Civil General	106	19	443
Civil Guardianship	47	17	200
Civil Paternity	0	0	13
Civil Restraining Order	43	14	94
Civil Youth in Need of Care	71	64	215
TOTAL CIVIL CASES:	493	227	1650
TOTAL CASES:	1703	1681	2116
TOTAL HEARINGS:	9690		

2. Not Included in Statistics: Fines and Filing fees were up in 2010, primarily because of the increased number of traffic infractions. In 2009, the court collected \$58,969 of which \$11,730 was for civil filing fees and the remaining \$47,239 in criminal and traffic fines. In 2010 the court collected \$127,984.99 in receipts of which \$116,000 was criminal and traffic fines. This is again a substantial increase in fine collection, about a 55% increase in collection over 2009.

The Court also held 8 jury trials. One of the jury trials spanned over two weeks and required the court to summon over 150 jurors. 75 jurors actually attended and the jury was properly seated and the case resolved. The Court also held several multiple day civil trials in 2010 regarding guardianship, dissolution and child custody issues.

B. Wellness Court: The Wellness Court continues to operate and meet one time per week to staff cases. In 2010, the Court graduated 1 person from Wellness Court for a total of 12 people in 4 years.

C. Meetings and Trainings: The Judges participated in several internal meetings with Tulalip staff and several trainings conducted by the Judges with external agencies.

1. Trainings: Both Judges and the Court Director attended the National Judicial College for Court training and planning in 2010. Judge Bass attended an additional session on Criminal Procedure and Evidence also at the National Judicial College.

2. Trainings or Presentations by the Judges: Judge Pouley presented at a CEDARS meeting, at the Washington State Bar Association's Leadership Institute, was a facilitator for the Office of Victims of Crime and the Office of Violence Against Women in 2010. She also participated in a "listening" session sponsored by the National Council of Juvenile and Family Court Judges to begin planning and implementation of the organizations' curriculum to include tribal justice systems. She was appointed by President Obama to the Indian Law and Order Commission as one of the 9 Commissioners to review and recommend federal changes to criminal justice under the Tribal Law and Order Act, passed in 2010. Judge Bass presented at the Snohomish County Bar Association's Continuing Legal Education Training on Indian law this fall. The entire day was dedicated to tribal law issues and several Tulalip practitioners provided training including Judge Bass and Probation Officer Jim Furchert.

3. Trainings for Court Staff: The Court Director arranged a week long on site training for the Court Clerks in 2010. Two Clerks also attended week long training on the Court's case management system. The Probation Officer, Jim Furchert, completed the State Probation Officer Academy in 2010.

3. Meetings attended:

a. The Court continues to participate in Monthly Law and Justice Committee Meetings to coordinate and update various departments on changes and recommendations for changes in the judicial system.

b. The judges and the Court Director continued to meet with Services Committee to provide information on Court process, Wellness Court, statistical information and staffing needs. This year the Court Director developed a survey and needs assessment for facility and staff planning and presented it to the Service Committee. She also coordinated a meeting with all Law and Justice presenters about the needs of the justice system in the foreseeable future including planning for facilities improvement. The Tulalip Tribal Court proudly launched its website in 2010 after over a year in the planning. The Director continues planning updates to the website.

c. The legal staff including the Judges continued to work on the revisions to Ordinance 49 to allow the court to take advantage of the increased jurisdiction

allowed under the federal Tribal Law and Order Act (“TLOA”). The staff is hopeful to present proposed changes to the Tulalip Board of Directors by the first quarter of 2011.

d. Judge Bass continues to participate in the Snohomish County Juvenile Court diversion to the Tulalip Community Accountability Board (CAB) which meets with Tulalip youth offenders in the state court system. The CAB began seeing youth offenders in 2009 and sees about 12 to 15 Tulalip youth per year.

e. Both Judges participated in Domestic Violence and Child support meetings throughout the year.

f. The court had a variety of visitors in 2010. The Court had visitors from Latin and South America as well as several other tribal court systems in 2010. The Department of Justice has tasked a U.S. Attorney to make recommendation for changes to justice systems in the Dakota’s and he spent a few days visiting with various Tulalip Law and Justice Department.

D. Other Court Programs:

1. Elders Panel: The Tulalip Elders Panel completed its third year. It continues to be comprised of volunteer Tulalip elders who wish to provide services for young first time offenders (between about 21 to 25 years of age). This year the Elders Court has recommended changes to increase its potential client base to expand on its success with young offenders. The Elders are expanding the program to persons less than 37 years of age, some repeat offenders and may begin seeing probation clients in 2011. In 2010, the Elders saw about 10 clients.

2. Probation Office: The goal of the Probation Department is to provide assistance to tribal members in meeting their court-ordered requirements.

- a. Probation monitored about 225 active cases in 2010.
- b. As the primary presenting officer for persons being reviewed with sentencing requirements, Probation attended, prepared, and presented at about 589 court hearings in 2010. The Probation Department which consists of 1 probation officer, 1 probation assistant and one temporary worker had 2,647 daily encounters with their clients.
- c. UA’s: Probation conducted 279 urinalysis tests, 2 hair tests and 233 portable breath tests for their clients. Of the positive tests received, the most abused substance was alternate opiates (12%), marijuana (9%), amphetamines (5%), cocaine (3%) and opiates (3%). Heroin is reported as “opiates” but substantially increased in percentage use in late 2010. Probation estimates that one in four of their clients are currently suffering from a heroin addiction. They are closely monitoring the UA results to substantiate this anecdotal information.

3. Mediation: The Court continues its contract with NICS to provide an on-site mediator one day per month. The mediation has been very successful and has substantially increased the number of agreed parenting plans being adopted by the parties and the Court. The mediation services are currently grant-funded

so mediation saves a substantial amount of court time and expense. This funding should continue throughout 2011.

4. **Guardian Ad Litem and Conflict Defense Attorneys:** The Court extensively relies on guardian ad litem (advocates for the children) in child custody cases. The Court also maintains a list of outside attorneys it uses when the University of Washington has a conflict representing a client. The Court was gravely concerned it would exceed its conflict counsel budget for 2010, but the Court Director successfully obtained additional money to support the conflict counsel until the end of 2010.
5. **Grants:** The Court Director is also overseeing three grants that were obtained in 2010. A Court improvement grant which provides for mediation services, Tulalip received a conflict counsel grant which should assure no shortfalls in 2011, and a civil legal aid grant which provides legal services for persons in civil cases. The Court also was awarded a Domestic Violence grant which allows for the planning of a domestic violence court model over the next two years. This is also managed by the Court Director.

III. Planning for 2011 – Court Development

A. Judges: In 2011, Judge Bass and Judge Pouley will again change their primary court calendars. Judge Bass was reappointed for another term four year term as Judge.

B. Court Staff: In 2011, the Court will continue to assess and recommend where needed, staff additions. For staff supervision the Court Director continues monthly Court staff meetings to improve or enhance court functions, processes, and procedures.

1. The Court Director will continue to organize and participate in monthly Law & Justice Committee meetings, the CEDARS Drug Committee who meet once a month (Coalition Eliminating Drugs Around the Rez), is a member of the National Court Management Association (provides current information on court management issues), meets and provides input on the child support, civil legal aid and criminal conflict counsel grant, continues to work on a Court Clerk Manuel, arranges for training for herself and the Court staff, will continue to maintain and update the Tribal Court website. The Director will continue to write court-related articles for the See-Yaht-Sub on a regular basis. We started the process for developing a survey for our clients and users of the Court system and would like to continue that for 2011.

2. Planning for Facility: Facility planning will continue for 2011. The Court intends to apply for construction funds under the Department of Justice's grant funds available for construction of multi-purpose justice facilities.