

TULALIP TRIBAL COURT

6103 31ST Avenue NE
Tulalip, WA 98271
Phone: (360) 651-4049
Fax: (360) 651-4121

MEMORANDUM

TO: BOARD OF DIRECTORS; NICS; MIKE TAYLOR& TIM BREWER, RESERVATION ATTORNEY; GUS TAYLOR, GENERAL MANAGER; LORNA HENRY, BEDA?CHELH; CHIEF GOSS, TULALIP POLICE DEPARTMENT; PETER ASHMAN, SAZA OSAWA AND TAMMY BEATTY, PROSECUTOR'S OFFICE; JEFF HATCH, TGA; MOLLY COHAN, DEFENSE CLINIC

FROM: TULALIP TRIBAL COURT JUDGES

SUBJECT: 2011 ANNUAL REPORT

DATE: FEBRUARY 17, 2012

This report covers the Calendar Year January 1, 2011 to December 31, 2011.

I. Annual Summary of Activities.

A. Summary of Caseload.

1. Case Statistics: The total number of criminal filings increased by 38% over 2010 from 306 new cases to 487. Cases involving Alcohol were down by about 50% last year but doubled this year. Cases involving drugs have substantially increased from 46 new filings to 68 new filings for about a 33% increase. This is the first time the criminal caseload has substantially increased since 2006. The traffic infractions have decreased slightly from last year but remain high when compared to the previous five year period. Since 2006, there continues to be in excess of an 80% increase in the number of traffic infractions processed through tribal court. 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 and have now rebounded to an all time high of 605 new filings. Thus, overall civil filings remain up over the last five years and remain fairly constant, ranging from a high of 605 to a low of 486 cases which is about 20% difference overall. Youth in need of care filings were up in 2011 but down from their all time high in 2009 (there were 85 in 2007, 65 filings in 2008, 94 filings in 2009, 71 filings in 2010 and 81 this year). Child support cases filings almost doubled (up by 44%) from 2010 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	2011
Criminal	353	311	318	339	306	487
Traffic	140	260	533	643	1078	818
Civil	486	601	504	517	493	605
Total Cases	979	1172	1355	1499	1703	1911
Total Hearings		5084	6674	8360	9690	13059

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, in 2010 about 37 hearings per day and in 2011 the Court heard an all time high of over 13,000 hearings which is about 50 hearings per day. The increase in the number of hearings is partly because of the overall increase in caseload, partially because the court is actively intervening and repeated reviewing criminal cases, partly because of the increased complexity of the cases and overall increase in involvement by attorneys. This is 3000 hearings over the top number of hearings the Judges predicted they could successfully complete.

II. ANNUAL STATISTICS.

TULALIP TRIBAL COURT			
ACTIVITY REPORT FOR THE PERIOD			
January Through December 2011			
Type of Cases	Filed	Disposed by Quarter	Total Pending
	Total	Total	
Criminal Alcohol	47	61	39
Criminal Drugs	68	68	42
Criminal Domestic Violence	42	56	24
Criminal Fishing	50	56	10
Criminal General	244	287	200
TOTAL CRIMINAL	487	575	518
TOTAL TRAFFIC	818	1197	197
Civil Anti-Harassment	12	14	25
Civil Child Support	65	1	184
Civil Child Custody	41	8	245
Civil Divorce	22	10	125
Civil Employment	24	17	48
Civil Exclusion***	37	3	71
Civil Gaming	20	8	51
Civil General	106	13	542
Civil Guardianship	37	17	228
Civil Paternity	3	0	17
Civil Restraining Order	39	27	87
Civil Youth in Need of Care	81	49	252
TOTAL CIVIL CASES:	606	196	2055
TOTAL CASES:	1911	1861	2574
TOTAL HEARINGS:	13,059		

2. Not Included in Statistics: Fines and Filing fees were up in 2011, 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. In 2011, the Court collected \$167,933.00 in fines and fees of which \$128,779 was civil and traffic fines. This is again a substantial increase in fine

collection, about a 24% increase over 2010 and a 72% increase in collection over 2009. The Court also obtained \$199,300.00 in grant funds for 2011.

Search warrants & other orders: Also not included in the statistics are the number of search and arrest warrants done after hours (usually late in the evening) and arrest warrants. The Court did well over 100 search and arrest warrants in 2011 between Fridays at 6 p.m. through Monday at 6 a.m. The Court also holds 2 ex parte days per week, new for 2011, and signs and enters over 20 orders per week which is approximately another 1,000 court orders reviewed and signed by the Judges.

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

1. **Trainings or Presentations by the Judges:** Judge Bass presented at the Washington State Bar Association's Leadership Institute for his yearly presentation with the federal and state court judges to young lawyers. Judge Pouley presented at the Federal Bar Association's Indian Law Section on options for exercising additional jurisdiction under TLOA, the Washington State Bar Association on TLOA, and at the University of Washington on Tribal Court's for visiting scholars from the United States State Department.

2. **Site Visits:** A variety of external agencies visited Tulalip Tribal Court in 2011. The federal Probation Department visited with our probation staff. The National Legal Services Board made its first site visit in Indian Country here at Tulalip. The Indian Law and Order Commission held its first Field Hearing at Tulalip and took testimony from a variety of Indian Law Experts. The National Council on Juvenile and Family Court Judges held its second Tribal Leadership Institute for Judges at Tulalip. The Bureau of Indian Affairs did a site visit and evaluation in 2011. The National Center for State Courts did a site visit and interviews with staff to tailor a grant funded training for the Court in 2012.

3. **Trainings for Court Staff:** The Court Director arranged a week long on site training for the Court Clerks in 2011. The clerks also have quarterly in-house training on a variety of subjects ranging from customer service to personal organization.

4. **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. Snohomish County added a representative to these monthly meetings in 2011.

b. The judges and the Court Director continued to meet with the Services Committee to provide information on Court process, Wellness Court, statistical information and staffing and facilities needs.

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 Court also participates in meetings with the Civil Legal Aid Department and Tulalip Foundation for the administration of the Civil legal Aid grant and the monthly

meetings with the Conflict Counsel group for administration of the conflict counsel grant. Judge Bass continues to work on the Court Rules Committee, drafting procedures and court rules for tribal court, the Domestic Relations Code revision subgroup of Law and Justice, and the Safety Committee to address security issues at the Court.

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.

D. Other Court Programs:

1. Elders Panel: The Tulalip Elders Panel completed its fourth 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. In 2011, 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 325 active cases in 2011 which is up from 225 cases last year. This is about a 30% increase in the probation caseload.
 - b. The Probation Department which consists of 1 probation officer and 1 probation assistant had over 2,500 daily encounters with their clients. The Court has substantially increased the use of probation for pre-trial services because of the substantial increase in heroin use on the reservation.
 - c. UA's: Probation conducted 352 urinalysis tests and over 20 hair tests. The total number of UA's is about 20% higher than in 2010. Of the positive tests received, the most abused substance was alternate opiates (14%), marijuana (12%), amphetamines (7%), cocaine (2%) and opiates (4%). Heroin is reported as "opiates" but substantially increased in percentage use in 2011. Probation estimates that one in four of their clients are currently suffering from a heroin addiction.
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 2012.
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 Director successfully obtained additional money to support the conflict counsel until the end of 2012.

5. **Grants:** The Court Director is also overseeing three grants that were obtained in 2010. The Director closed one Tribal Court Assistance Program grant for \$42,000. There remains three grants: Criminal Conflict Counsel grant to supplement Court budget at \$80,000 (2-year grant); Domestic Violence grant at \$50,000 (2-year grant) to develop a domestic violence court model; and, a CTAS (DOJ) grant for \$159,000 to migrate to new Court case management system to yield better results and statistics for the Court. Also, applied for a Tribal of Office Justice programs grant and received it for \$27,300 (one-time funding) for filing cabinets and computers for the 3rd Courtroom.

6. **Court Director Report:** The Court Director worked with Sonja Kraski, Snohomish County Court Clerk to review Tulalip Tribal Court Clerk wages. Ms. Kraski provided the County Clerk's wage scale, thus, the Court was able to increase the Clerk's wages to a living standard rather than paying them secretarial wages based on the need for Court Clerks to possess specialized knowledge (i.e., Full Court software, For The Record, knowledge of the ordinances, and civil & criminal court proceedings, and understand the principles of caseflow management).

The Court Director also arranged several Court Clerk training sessions both on-site and off-site for the Court Clerks. We sent two Court Clerks to Advanced Court Clerk training; the Clerk's were tested and received their Certificate of Completion. We had Judge Randy Doucet go over the Clerk's Office organization; filing procedures; and, confidentiality requirements as they relate to Court files.

The Court Director contracted with Ramona Tsosie (Yvapai Tribe), a Tribal Court Consultant Expert to draft a Tulalip Tribal Court Clerk Manual by coming on-site to review our Ordinances, especially the Tribal Law & Order code to develop procedures, processes, and guidelines for the Clerks. The Manual is 90% complete.

III. **Planning for 2012** – Court Development

- A. **Judges:** In 2012, Judge Bass and Judge Pouley will again change their primary court calendars.

- B. **Court Staff & new Courtroom:** In 2012, the Court will continue to assess and recommend where needed, staff additions. Currently the court is short-staffed and the plan is have the Court fully staffed for 2012. Also in 2012 the Court will add an additional Judge. The Court will use its pro tems through June of 2012 until the completion of the third courtroom. Then the Court plans to advertise and interview for a new full time Judge in 2012 with Board input and participation.

- C. Court Technology: The court has been reviewing a variety of case management systems including features such as electronic filing. It is the current plan to change case management systems and begin testing electronic filing to decrease the courts currently burgeoning paper files.
- D. Facilities Planning: The Court will continue its ongoing process of planning a new facility that can keep pace with the current demand for justice system services.
- E. Youth Planning: The court is undertaking evaluation and implementing new systems for our youth cases. The Court will continue to see teenagers who are substance abusers or truant from school in an attempt to support those youth. Additionally the court is experimenting with strategies to engage substance abusing parents including adding financial consequences for continued use. This is a particularly important strategy as the number of parents who are heroin users has substantially increased in 2011. The Court also made its first trip to Heritage High School and would like to continue efforts to support the school and its students.