

TULALIP TRIBAL COURT

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MEMORANDUM

TO: BOARD OF DIRECTORS; NICS; MIKE TAYLOR& TIM BREWER, RESERVATION ATTORNEY; SHERYL FRYBERG, GENERAL MANAGER; LENA HAMMONS, BEDA?CHELH; CHIEF SUTTON, TULALIP POLICE DEPARTMENT; DAVID WALL, SAZA OSAWA AND TAMMY BEATTY, PROSECUTOR'S OFFICE; JEFF HATCH, TGA; MOLLY COHAN, DEFENSE CLINIC

FROM: TULALIP TRIBAL COURT JUDGES

SUBJECT: 2012 ANNUAL REPORT

DATE: FEBRUARY 17, 2013

This report covers the Calendar Year January 1, 2012 to December 31, 2012.

I. Annual Summary of Activities.

A. Summary of Caseload.

1. Case Statistics: The total number of criminal filings decreased by 15% over 2011 but still is an increase over 2010. Over the last two years there still is about a 20% increase in new criminal case filings. Cases involving alcohol continue to decrease but cases involving drugs have continued to increase, about a 10% increase over last year's numbers. This is the second year in a row that the criminal caseload has increased since 2006. The traffic infractions have decreased slightly from last two years 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 continue to increase and for a second year in a row have hit an all time high. This year's new filings were at 648 cases which is about 7% higher than last year's 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 low of 493 to a high of 648 cases which is about 24% difference overall. Youth in need of care filings were up in 2011 and are up again for 2012. The new case filings are high, at 90 cases for 2012, but shy of the all time high in 2009 of 94 cases. Child support case filings almost doubled in 2011 and now have almost tripled in 2012 at 111 new filings. This 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	2012
Criminal	353	311	318	339	306	487	415
Traffic	140	260	533	643	1078	818	737
Civil	486	601	504	517	493	605	648
Total Cases	979	1172	1355	1499	1703	1911	1800
Total Hearings		5084	6674	8360	9690	13059	16934

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. 2012 maintains a substantial increase with an all time high of 16934 hearings which is about a 23% increase from 2011 and is now about 65 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 reviewing criminal cases, partly because of the increased complexity of the cases and overall increase in involvement by attorneys. In addition, the Court in 2012 began setting aside hearing time for youth over 12 who are youth in need of care to assist in providing them services and in monitoring their requests to access their own funds from their judicially blocked accounts.

This is now about 6100 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 2012			
Type of Cases	Filed	Disposed	Total Pending
	Total	Total	
Criminal Alcohol	24	69	21
Criminal Drugs	76	126	40
Criminal Domestic Violence	29	56	18
Criminal Fishing	35	78	9
Criminal General	231	379	180
TOTAL CRIMINAL	415	708	279
TOTAL TRAFFIC	737	992	211
Civil Anti-Harassment	12	7	30
Civil Child Support	111	19	273
Civil Child Custody	28	4	270
Civil Divorce	15	11	133
Civil Employment	22	13	55
Civil Exclusion***	24	12	83
Civil Gaming	17	1	63
Civil General	55	37	558
Civil Guardianship	87	12	302
Civil Paternity	4	0	21
Civil Restraining Order	41	14	117
Civil Youth in Need of Care	90	36	310
TOTAL CIVIL CASES:	648	215	2493
TOTAL CASES:	1800	1959	2982
TOTAL HEARINGS:	16,934		

2. Not Included in Statistics: Fines and Filing fees were up in 2012, primarily because of the continued high 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.

TULALIP TRIBAL COURT NON-GRANT REVENUE – 2009 to 2012				
2009	2010	2011	2012	TOTAL
\$58,969	\$127,984.99	\$167,933.00	\$267,552.97	\$622,439.96

Grant revenues for 2012 totaled \$476,000.00. This included grant funding for the court’s new case management system, funds for criminal conflict counsel, sexual assault training for Tulalip last fall and \$230,000 in impact funds from QCV.

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). The Court did well over 100 search and arrest warrants in 2012 between Fridays at 6 p.m. through Monday at 6 a.m. The Court also holds 2 ex parte days per week, new for 2012, 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 and in the DOJ National Survey of Tribal Court Systems. Judge Pouley presented at the Federal Bar Association’s Indian Law Section on options for exercising additional jurisdiction under TLOA, the DOJ/BJA Tribal Civil Legal Aid Symposium in Washington D.C., the National Tribal Court Judges Association Annual Conference on TLOA, the National Council on Family and Juvenile Court Judges Annual Tribal Leadership Group, at Harvard Law School on the Tribal Justice Systems and TLOA, at UCLA on Tulalip Tribal Court System development, and at the University of Washington Annual Indian Law Symposium on the Tribal Law and Order Act and the work of the Indian Law and Order Commission. As a member of the national Indian Law and Order Commission, Judge Pouley participated in six site visits across the country. She also participated in the on-going collaboration and development of a State-Tribal Court forum with members of the Washington Supreme Court. Finally, she participated in activities and meetings with Congressmen in support of the Amendments to the federal Violence Against Women Act (VAWA).

2. Site Visits: A variety of external agencies visited Tulalip Tribal Court in 2012 and the Court hosted two sets of youth visitors. The Court hosted visitors from Washington State Legislators conducting visits in Indian Country focusing on development of protocols for child dependency cases. We had a variety of visitors from the press, including the Seattle Times doing a story on VAWA and a number of reporters investigating and reporting on a serious criminal case pending in tribal court. In addition, the Court hosted for a second year the Marysville Middle School and Arlington High School Mock Trial team and had a first ever “Law Day” for Heritage High School Students.

3. Trainings for Court Staff:

a) The Court Director arranged a week long on site training for the Court Clerks in 2012 to introduce the new Court Clerk's Manuel developed in 2012.

b) Sexual Assault training: As part of its DV grant the Court Director planned, implemented and completed a first of its kind training for Tulalip on Sexual Assault case processing and victims services. This was a multi-disciplinary training including all service providers, police, Judges, court staff, probation, mental health, victims services and members of the Board of Directors. The two-day training was grant-funded and specifically tailored to Tulalip.

4. Meetings attended and Policies Developed:

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. In 2012, smaller sub-committees were created to work on Court Safety, updates to the Ordinances including changes to the criminal code and SORNA, the Domestic Relations Code and developing Tulalip Tribal Court Court Rules. All were completed and adopted in 2012.

b. The judges and the Court Director continued to meet with the Services Committee to provide information on Court activities and processes. Judge Pouley met monthly with the Tulalip Foundation for the administration of the Civil Legal Aid grant and in quarterly meetings for the Conflict Counsel group.

c. Policies Developed: The legal staff including the Judges continued to work on the revisions to the criminal Ordinance to allow the court to take advantage of the enhanced sentencing under the federal Tribal Law and Order Act ("TLOA"). The Court continued to work on the Court Rules with a Court Rules Committee and those rules were adopted in December of 2012. The Domestic Relations Code revision subgroup of Law and Justice presented and adopted changes to the Ordinance. The Safety Committee continued to meet to address security issues at the Court, however, the recommendations were not implemented in 2012 because of facilities issues.

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 fifth 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 2012, the Elders saw about 10 clients.

2. 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 2013.

3. **Grants:** The Court Director is also overseeing three grants: Criminal Conflict Counsel grant to supplement the 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 one-time funding to supplement the new case management system with new hardware.

4. **Court Director Report:**

The Court Director reports on a monthly basis to the General Manager for 2012. Consequently her coordinated work with the Tribe and her reporting has increased ten-fold over 2011. In addition, 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; she was also instrumental in obtaining a completed Court Clerk's Manual for Tulalip Tribal Court.

The Court Director hired two new court clerks and one deputy court clerk in 2012. Contract employment was approved to provide the probation department support. For the first time since 2007, the Court was fully staffed.

The Court Director and Judges also selected and participated in planning sessions for a new case management system which should go on-line in 2013. This included several weeks of staff participation in demonstrations for a number of case management systems before Odyssey was selected.

The Court Director and Judges participated in several meetings to partner with Seattle University Law School to establish a judicial externship program, similar to the University of Washington's Public Defenders. She established meetings, obtained Board approval and implemented a program where the judges receive law students as externs to help with legal research and writing as needed by the Judges.

The Court Director and Judges also finalized a plan and process to hire a third judge, develop a third courtroom, and obtain all equipment and staff necessary to operate 3 courtrooms and 3 dockets at Tulalip Tribal Court. Unfortunately, due to circumstances beyond her control although all the processes are ready, this cannot be completed because of difficulties with the current facilities.

The Court Director and Judges created and implemented a media policy with the input of all effected departments for a particularly involved criminal case in the fall of 2012.

The Court Director and Judges created, verified, obtained approval and published a list of persons with active warrants in the tribal newspaper on two occasions in 2012 and plans on doing so again in 2013.

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

- A. Judges: In 2012, Judge Bass and Judge Pouley again changed their primary court calendars. The Court was hopeful to start a new Judge in 2012 but was unsuccessful because of facilities issues.
- B. Court Staff & new Courtroom and Facilities Planning: In 2013, Court facilities must be addressed. The current facilities will not accommodate the current justice system.
- C. Court Technology: The Court will implement its new case management system in 2013.
- D. Youth Planning: Planning for the exercise of youth jurisdiction is critical. Preliminary numbers gathered by a working group on juvenile justice demonstrate that Tulalip Youth are substantially overrepresented in the state justice system. Almost half of the truancy petitions filed by Marysville School District are Tulalip and anecdotal information gathered from youth service providers shows that Tulalip youth are substantially overrepresented in the state delinquency system. Further, these youth are poorly treated and often end up in detention. This situation is simply intolerable. The Court will continue to work with youth service providers and develop a plan to begin exercising jurisdiction over at least truant youth in 2013. The court is undertaking evaluation and implementing new systems for our youth cases. The Court will continue to see youth in need of care teenagers who are substance abusers or truant from school in an attempt to support those youth.