

**STATE AND TRIBAL COURT
INTERACTION**

BUILDING COOPERATION

AN ARIZONA PERSPECTIVE

STATE AND TRIBAL COURT INTERACTION: BUILDING COOPERATION
AN ARIZONA PERSPECTIVE

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II. FOREWORD

The Forum expresses its gratitude to Arizona Chief Justice Frank X. Gordon for his support of participation of tribal judges in state judges training programs; for his ongoing relationship with many state court judges; and for his outreach efforts to Indian courts and tribal court advocates.

Consensus building is more than publications and programs. Consensus building is fundamentally a person-to-person process and the Forum appreciates the efforts of Arizona Chief Justice Frank X. Cordon in this regard. He has, among other things, opened the State Court Judges' Annual Conference and training to tribal court judges; he has established good working relationships with many tribal court judges; he has visited tribal courts; and he has actively and consistently supported the efforts of this Forum.

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III. INTRODUCTION

This project originated because of a concern of the Conference of Chief Justices of State Supreme Courts over what was perceived as an increase in civil jurisdictional disputes between state and tribal courts.

The Conference of Chief Justices established a Committee on Civil Jurisdiction in Indian Country which recommended enhanced cooperation between tribal and state courts.

This in turn led the Conference of Chief Justices to sponsor a project designed for them by the National Center for State Courts and funded by the State Justice Institute. This project involved a research phase in which the nature and extent of the problems between state and tribal courts would first be determined. Then three states would be selected to work on model approaches to find solutions to these problems.

To oversee this project, a 13-member Coordinating Council, chaired by retired Chief Justice Vernon R. Pearson of Washington state, was established. Three Arizona officials serve on this Council--Chief Justice Tom Tso of the Navajo Nation; former Chief Judge of the Tohono O'odham Judiciary (and now Director of the Branch of Judicial Services of the Bureau of Indian Affairs) Hilda Manuel; and William L. McDonald, Administrative Director of the Courts. Other members are federal, tribal, and state court judges, Indian and non-Indian attorneys, and legal scholars/consultants.

The initial part of the project--determining the nature and scope of the project—was accomplished with a mail survey in which tribal and state court officials, state attorneys general and others in the 32 states with Indian country participated. Following the mail survey, an intensive telephone survey was conducted in seven states, including Arizona.

From this research, it appeared that jurisdictional disputes had arisen most frequently in the areas of the Indian Child Welfare Act, domestic relations (family law), contract law as well as taxation, hunting and fishing, and certain other areas.

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For the second phase of the project, developing model approaches to consensus building, three states, Arizona, Oklahoma and Washington (state) were selected by the Coordinating Council. In each state, the state Chief Justice together with the Coordinating Council, selected members of that state's Forum, who, together with a consultant selected by the Coordinating Council, were to explore and chart ways of building consensus between state and tribal governments and prepare a report to the Coordinating Council. The Arizona Court Forum presents this document as its report to the Coordinating Council.

The members of the Arizona Court Forum recognize that their work in this regard and their recommendations, as set forth in this report are only that--ideas and recommendations. The members recognize that ultimately the decision-makers in the sovereigns--the State of Arizona and the Indian tribes/nations--must decide whether to implement any of these recommendations and, if so, whether to implement them in the manner suggested by the Forum.

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IV. MEMBERS OF THE ARIZONA COURT FORUM

* **Hon. John L. Claborne** has served as a judge of the Arizona Court of Appeals since 1989 and previously served as presiding judge of the Apache County Superior Court from 1982 to 1989; prior to that he was in private practice in Alpine and Tucson, Arizona. Judge Claborne is a graduate of the University of Arizona and the University of Arizona College of Law.

Judge Claborne has served as Chair of the Arizona Court Forum and Chair of its Jurisdiction Committee.

Hon. Ned Norris, a member of the Tohono O'odham Tribe, entered the judiciary in May 1979. He has served as a judge in both the Tohono O'odham Children's Court and Tohono O'odham Court of Appeals. He is Chief Judge of the Tohono O'odham Nation and is Chief Judge of the Pascua Yaqui Appellate Court.

Judge Norris has served as Vice-Chair of the Arizona Court Forum, Chair of its Education Committee and member of the Jurisdiction Committee.

Frederick L. Aspey, Esq., is a partner in the Flagstaff law firm, Aspey, Watkins & Diesel. Mr. Aspey is the 1990-1991 President of the State Bar of Arizona.

Mr. Aspey is a graduate of Northern Arizona University and Arizona State University College of Law.

Hon. H. Jeffrey Coker has served as the presiding juvenile judge of the Coconino County Superior Court since 1989 and has served as a superior court judge in the Coconino County Superior Court since 1985. Prior to that time Judge Coker was an attorney in private practice in Phoenix and Flagstaff, Arizona. Judge Coker is a graduate of Northern Arizona University and Arizona State University College of Law.

Judge Coker has served as a member of the Jurisdiction and Intergovernmental Agreements Committees.

*The affiliations of each member of the Forum are shown for information purposes only. This report represents the collective views of the members of the Forum in their individual capacities and does not necessarily represent the views of the entities with which they are associated and, for members of Indian tribes/nations, does not necessarily represent the views of their tribe/nation.

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Hon. Michael Irwin has served as presiding judge of the La Paz County Superior Court since 1983. Judge Irwin previously served as Yuma County Attorney. Judge Irwin is a graduate of the University of Arizona and the College of Law of Arizona State University.

Judge Irwin has served as Chair of the Intergovernmental. Agreements Committee and as a member of the Legislation/Uniform Laws Committee.

Hon. Sheila McCord, a member of the Fort Mojave Tribe, has served as Chief Judge of the Mojave Tribal Court since 1984 and as President of the Southwest Indian Court Judges Association since 1986. Judge McCord has also served as Chief Judge of the Havasupai Tribe for two years.

Judge McCord has served as a member of the Education Committee.

Siera Russell, J.D., a member of the Yavapai-Apache Tribe, has served as Administrative Director of Indian Legal Programs at Arizona State University College of Law since 1989. Ms. Russell is a graduate of Arizona State University (B.A., 1982); Harvard Graduate School of Education (M. Ed., 1986); and University of California (Berkeley) Law School (J.D., 1989).

Ms. Russell has served as a member of the Education Committee.

Claudine ft. Sattler, Esq., has served as Court Solicitor for the Judicial Branch of the Navajo Nation since 1984. Prior to that time Ms. Sattler was in private practice in Denver, Colorado and Cleveland, Ohio. Ms. Sattler is a graduate of Georgetown University Law Center.

Ms. Sattler has served as Chair of the Uniform Laws/Legislation Committee and a member of the Intergovernmental Agreements Committee.

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David L. Withey, Esq. has served as an attorney with the Administrative Office of the Courts of the Arizona Supreme Court since 1988. Mr. Withey was an attorney with DNA--People's Legal Services in Whiteriver, Arizona from 1982 to 1984. Mr. Withey is a graduate of the College of Wooster and the College of Law of Arizona State University.

Mr. Withey has served as a member of the Uniform Laws/ Legislation Committee.

Lawrence A. Ruzow, Esq. has been an attorney in private practice in Window Rock, Arizona since 1980. Prior to that time Mr. Ruzow was with the Office of the General Counsel of the Navajo Nation from 1972 to 1980. Mr. Ruzow is a graduate of Yale University (B.A., 1966); the Harvard Law School (J.D., 1969) and Northern Arizona University (M.B.A., 1989).

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V. ACTION AGENDA

A. Education

1. There should be an annual conference for Arizona's state and tribal judges. This conference should be sponsored by the College of Law at Arizona State University and the University of Arizona Law School in alternate years, with the active participation from both state and tribal judges concerning theme, presenters and invitees.
2. Educational programs for state court judges should include education in Indian law; educational programs for tribal judges should include education in Arizona law.
3. Information about Arizona's Indian tribes/nations and their court systems should be more widely disseminated.
4. A comprehensive Arizona tribal courts directory should be developed and kept up to date.
5. Indian tribes/nations, law schools and federal funding sources should cooperate to make the law applied in tribal courts more readily available to state court judges and lawyers practicing in state and tribal courts. State law should be made readily available to tribal judges through the resources available to state court judges.
6. The Forum strongly supports the establishment of an Indian law section of the State Bar of Arizona and recommends persons permitted to practice as advocates before tribal courts be invited to become members of this section. The Forum urges the Indian law section to sponsor an annual seminar on jurisdiction.
7. The Forum urges those persons admitted to practice in Arizona's tribal courts to consider establishing a professional organization.
8. We urge that national computer-assisted legal research services such as LEXIS and WESTLAW add reported decisions of tribal courts of appeal and supreme courts as well as tribal statutes to their databases.

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B. Jurisdiction

1. Ideally, each judicial system should handle those cases and controversies which it can deal with best.
2. Courts deciding jurisdictional questions should provide clear guidance to lower courts and litigants.
3. Parties entering into agreements with Arizona's Indian tribes/nations and other agreements which are to be performed within Arizona's Indian tribes/ nations should consider including provisions setting forth the choice of forum in which disputes will be heard and the choice of law which governs in the event the parties have disputes which cannot be resolved by good faith negotiations.
4. Indian tribes/nations, the State of Arizona, political subdivisions of the state, public bodies such as school districts and flood control districts carrying on activities within Arizona's Indian tribes/nations and other entities doing business within Arizona's Indian tribes/nations should consider alternative dispute resolution ("ADR") provisions in agreements.
5. The State of Arizona and Arizona's Indian tribes/nations should consider establishment of procedures whereby courts in one jurisdiction can certify questions to the highest court of the other jurisdiction.

C. Intergovernmental Agreements

1. We recommend that a climate for consensus and cooperation between the State of Arizona and Arizona Indian tribes/nations be concretely established by proclamation by the governor and the chief executive of each Arizona Indian tribe/nation and by resolution of the Arizona Legislature and the legislative bodies of Arizona's Indian tribes/nations embracing a "government to government" approach in all interaction.
2. Intergovernmental Agreements ("IGA's") should continue to be used by Arizona and the Indian tribes/nations in Arizona to cooperatively and efficiently provide facilities and services.

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3. We encourage the state's universities to undertake a project to catalogue and collect existing intergovernmental agreements between the state and its political subdivisions and Indian tribes/nations as a resource for all governmental entities in Arizona.
4. The State of Arizona and Arizona's Indian tribes/nations should consider multi-party IGA's or compacts.
5. We also recommend that Arizona's Indian tribes/nations and their constituent branches such as the judicial systems enter IGA's with other Indian tribes/nations where appropriate.
6. Questions of sovereign immunity in the enforcement of IGA's ought to be addressed and resolved whenever possible. When waiving sovereign immunity in specific agreements is not acceptable to an Indian tribe/nation, IGA's containing ADR provisions or which require no remedy beyond termination of the agreement may still be used.
7. We recommend that the State and Arizona's Indian tribes/nations consider IGA's in many areas, including, but not limited to:
 - a. child custody
 - b. child support
 - c. supervision of probationers and parolees
 - d. return of dependent, delinquent, and neglected minors
 - e. mental health evaluation and commitment
 - f. juvenile placement
 - g. use of experts (social service; counselors; psychiatrists, etc.)
 - h. sharing of facilities
 - i. extradition

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- j. enforcement of protective orders in spouse abuse situations and reciprocal mutual injunctions in dissolution proceedings
- 8. We also suggest that existing interstate compacts be considered as models for compacts or IGA's between Arizona and Arizona's Indian tribes/nations or among Arizona's Indian tribes/nations.

D. Uniform Laws

- 1. The State of Arizona and Arizona's Indian tribes/nations should consider adopting the "Uniform Enforcement of State and Tribal Courts Judgments Act" (the "Uniform Act") which the Forum has drafted. (The Uniform Act appears at Appendix E).
- 2. The State of Arizona and Arizona's Indian tribes/nations should consider amending and/or adopting existing uniform acts making them applicable to Indian tribes/nations.

E. Federal Legislation

- 1. The Indian law section of the State Bar of Arizona should carefully consider the need for federal legislation to resolve jurisdictional issues and devise a framework for evaluating and promoting proposed legislation which involves all interested Arizona governmental entities and interested organizations and individuals.

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VI. RECOMMENDATIONS AND RATIONALE

A. Education

- 1. There should be an annual conference for Arizona's state and tribal judges. This conference should be sponsored by the College of Law at Arizona State University and the University of Arizona Law School in alternate years, with active participation by both state and tribal judges concerning theme, presenters and invitees.**

Communication is a basic ingredient of understanding. The Forum found that in those instances in which there has been good communication between state and tribal judges, there have been few problems. An annual conference will demonstrate an ongoing commitment on the part of the state and tribal judiciaries to cooperation between the judicial systems; enhance existing relationships; promote new cooperative relationships; provide a forum in which learning can take place and demonstrate to both judges and the state and tribes the importance of state and tribal judicial systems and their relationship to one another.

The last two annual judicial conferences have included invitations to the tribal judges throughout the State of Arizona. Although they do not belong to the Arizona Judges Association, the tribal judges can and do participate in the various workshops and seminars held at the annual conference. We would encourage this practice to continue and to progress with the inclusion of Indian law workshops which would address the particular problems facing tribal and state judges.

The College of Law at Arizona State University and the University of Arizona Law School are critically important resources which regularly sponsor law and law-related programs. Both law schools have a close connection not only with the state judiciary, but also with Indian judges and lawyers through the Indian law centers and programs. We encourage the law schools to make available facilities and experienced staff needed to host such conferences.

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Alternating sponsorship between Arizona State University and the University of Arizona will enhance utilization of faculty from both schools and make attendance easier for judges from throughout the state. Providing for active participation from state and tribal judges in the planning of each conference will insure that the programs are relevant and valuable for all concerned. It will also promote the feeling among the judges who participate that the conference is “their” program, rather than a program at which they are mere spectators.

We also urge that officials from the state and Indian tribes/nations, including elected officials, be invited and encouraged to participate in these conferences.

We suggest that among the subjects which are discussed at such a conference would be “nuts and bolts” subjects such as jurisdiction, the Indian Child Welfare Act, enforcement of child custody and support; probation agreements; enforcement of judgments and mental health as well as more philosophical questions concerning the role of tribal courts and the relationship between tribal and state court systems.

2. Educational programs for state court judges should include education in Indian law; educational programs for tribal judges should include education in Arizona law.

The Forum believes that understanding and consistency in decision-making will be enhanced if the judges in each system (state and tribal) learn about the other system and the law applied in the other system. We also believe that, to the greatest extent possible, tribal judges and lawyers should be used as presenters at state judge training sessions on Indian law and that state judges and lawyers should be used in the same way at tribal judges’ training sessions on Arizona law. This approach will not only give the judges attending the programs the chance to hear first-hand how the other system operates, but also promote the opportunity to meet people from the other system.

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3. Information about Arizona's Indian tribes/nations and their court systems should be more widely disseminated.

The Forum believes that not only do many non-Indian judges and lawyers (as well as the general public) lack knowledge about Indian law (and, in fact, many Indian judges and lawyers lack knowledge about the law of tribes/nations other than their own or where they preside or practice), but also many non-Indian judges and lawyers are not knowledgeable about Arizona's Indian tribes/nations and their courts.

We believe that regular articles in such publications as the state judiciary's "Bench Press" and the State Bar of Arizona's "Arizona Attorney" could help provide appropriate information about Arizona's Indian tribes/nations and their courts through a monthly article focusing on a given Indian tribe/nation and its courts.

4. A comprehensive Arizona tribal courts directory should be developed and kept up to date.

Equally important as tribal substantive law, is knowledge about where tribal courts are located and the identity of their judges and other court personnel. More and more tribal courts are establishing practice requirements. It is important that these requirements be readily available and lists of persons admitted to practice in these courts be available to the public.

This directory should include all of the information presently provided by the Arizona Commission on Indian Affairs and the Arizona Statewide Legal Services Project. We feel that the directory should be expanded and compiled by one agency so that it would be as comprehensive as possible.

In furtherance of this recommendation, the Arizona Forum has requested each Arizona tribe provide current information in the form of a tribal court profile. These profiles are designed to form the basis of a tribal courts directory. (Appendix B)

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We encourage the newly created Indian law section of the State Bar of Arizona to undertake to produce this directory and either be the agency or find the appropriate agency to get it published.

- 5. Indian tribes/nations, law schools and federal funding sources should cooperate to make the law applied in tribal courts more readily available to state court judges and lawyers practicing in state and tribal courts. State law should be made readily available to tribal judges through the resources available to state court judges.**

At present it is often difficult to ascertain what tribal law is on a given question. Tribal court opinions are not generally published (the Indian Law Reporter and the reported decisions of the Navajo Courts is an exception.) Most tribal codes are not readily available, and most of those that are available are not kept current. A similar problem exists with the Rules of Procedure for some tribal courts.

The inability to find current, relevant tribal law contributes to a reluctance on the part of some judges, lawyers and clients to utilize tribal court systems. We feel that having current laws available will increase the use of tribal courts where appropriate and thus enhance tribal self-government. We urge Indian tribes/nations to publish their tribal codes, court rules and court opinions for this purpose.

We recognize that not all of Arizona's Indian tribes/nations can afford the cost of publishing their codes. We urge that federal funding be made available to assist all Indian tribes/nations with this important project which contributes to Indian self-determination.

We also recognize that the law libraries at the College of Law of Arizona State University and the University of Arizona Law School are important repositories of Indian law, including court decisions and the constitutions, codes, laws and ordinances of Arizona's Indian tribes/nations.

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We urge the Indian tribes/nations to cooperate fully with these libraries by providing copies of existing decisions and laws. It would then be possible, for judges, lawyers and others needing copies of tribal law to obtain the needed documents from the law libraries. Given the pervasive use of facsimile machines, it should be possible for a judge or lawyer anywhere in our state to obtain copies of needed decisions or laws within minutes.

Many tribal courts lack ready access to Arizona laws and reported decisions of Arizona courts. This means that tribal judges must either proceed without the benefit of knowing Arizona law; travel long distances to county courthouses and law school libraries to find the law, or pay for such materials from their own limited funds. We encourage state judges to invite local tribal judges to use such legal research resources as are available to state judges in that locality.

- 6. The Forum strongly supports the establishment of an Indian law section of the State Bar of Arizona and recommends persons permitted to practice as advocates before tribal courts be invited to become members of this section. The Forum urges the Indian law section to sponsor an annual seminar on jurisdiction.**

An Indian law section of the State Bar of Arizona will bring together many of the lawyers who regularly practice Indian law--in federal, state and tribal courts. It can provide a pool of interested talent to assist in many needed areas--the tribal courts directory; education of both judges and lawyers; raising standards of practice in tribal courts, etc. Membership by tribal court advocates would allow the opportunity for advocates to participate in addressing issues facing tribal courts in cooperation with attorneys with whom they practice.

The Indian law section of the State Bar of Arizona had its organizational meeting on November 8, 1990. Paul Bender, Esq., Professor at the Arizona State University College of Law chaired this meeting.

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Forum Chair Judge John L. Claborne, Vice-Chair Judge Ned Norris and member Claudine R. Sattler, Esq., were invited to and participated in the organizational meeting. Judge Claborne and Judge Norris also served on the initial nominating committee, together with State Bar President Frederick M. Aspey, Esq., and Robert Hoffman, Esq., of Phoenix and Arizona State University College of Law student Diane Enos with Judge Claborne serving as chair.

On December 6, 1990 an interim executive council of the Indian law section assumed office consisting of Red Lewis, Chair; Eric Dahlstrom, Secretary; Hon. Ned Norris, Treasurer; and Kathleen Bowman, Wayne Nordwall and Frederick Steiner, members at large. The interim council will serve until elections are held at the State Bar Convention in June.

The area of jurisdiction is one of the most important and perplexing areas of Indian law. It has become the custom of the sections of the State Bar of Arizona to provide a seminar or other mandatory continuing legal education (MCLE) activity during the annual State Bar convention. We urge the new Indian law section to conduct an annual seminar in the area of jurisdiction so that all members of the State Bar of Arizona will have the opportunity to keep abreast of developments in this area.

7. The Forum urges those persons admitted to practice in Arizona s tribal courts to consider establishing a professional organization.

We recognize the fine work that institutions such as the State Bar of Arizona do in promoting professionalism among their members and in providing many opportunities for legal education. A similar organization composed of persons admitted to practice in the tribal courts might provide benefits not only to the members, but to the tribal courts in which they practice.

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8. **We urge that national computer—assisted legal research services such as LEXIS and WESTLAW add reported decisions of tribal courts of appeal and supreme courts as well as tribal statutes to their databases.**

Indian tribes/nations and their courts are the third legal system in the United States. Their laws and the decisions of their courts affect an increasing variety of activities and individuals and entities. Persons doing legal research are becoming used to being able to find the relevant law through such computer-assisted legal research services as LEXIS and WESTLAW.

At present, such databases do not include the laws of Indian tribes/nations and the reported decisions of tribal courts. We recommend that efforts to provide appropriate databases for computer-assisted legal research be pursued.

B. Jurisdiction

1. **Ideally, each judicial system should handle those cases and controversies which it can deal with best.**

As Rule 1 of the Rules of Civil Procedure of federal, state, and some tribal jurisdictions states, “[These rules] shall be construed to secure the just, speedy, and inexpensive determination of every action.” We note that many litigants in state and tribal courts have limited resources and can barely afford the cost of the litigation process. If the costs are escalated because of jurisdictional disputes, the result may well be that people who need resolution of their legal problems will simply be shut out of the legal system.

While there are indeed theoretical and philosophical questions underlying the jurisdiction of a given court over a given case or type of case, what litigants want, or at least what they are entitled to, is justice, not expensive controversies over threshold issues such as jurisdiction and subsidiary issues such as discovery.

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A sensible rule of law is one in which each court handles those cases it can handle best and permits another judicial system to handle the cases it can handle best. Factors to be utilized in deciding which judicial system should hear and determine cases include the expertise of each court system; the location of witnesses and evidence; whether resolution of the controversy will require application of knowledge outside the experience of the court and convenience to the parties.

2. Courts deciding jurisdictional questions should provide clear guidance to lower courts and litigants.

Clear guidance from appellate courts, to the extent possible, in jurisdictional matters can help limit such controversies in future litigation and thus limit the time and expense of litigation. By definition, controversies over jurisdiction do not resolve the substantive controversy between or among the contending parties. Thus, they add time and expense to the ultimate resolution of cases.

We recognize, however, that many jurisdictional questions require ultimate resolution through the federal court system. Thus, what state and tribal courts can do in this area is subject to some limitations beyond the control of either the state or Arizona's Indian tribes/nations.

3. Parties entering into agreements with Arizona's Indian tribes/nations and other agreements which are to be performed within Arizona's Indian tribes/nations should consider including provisions setting forth the choice of forum in which disputes will be heard and the choice of law which governs in the event the parties have disputes which cannot be resolved by good faith negotiations.

The existence of political subdivisions of the State of Arizona such as public school districts within virtually all of Arizona's Indian tribes/nations and increased economic activity within Arizona's Indian tribes/nations means that questions involving jurisdiction are likely to

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arise. To some extent, parties can avoid jurisdictional questions by setting forth explicitly which forum will hear and determine any disputes which may arise. Of course, this choice must be consistent with established law governing subject matter jurisdiction of state and tribal courts.

We expect that such designations of forum and law to be applied will be given effect by state and tribal courts to the extent these courts have subject matter jurisdiction over the case.

We recognize that while choice of law and forum designations in contracts may be quite valuable, the principal benefit is likely to be in the area of contract law. Even if all contracts contained such provisions, the questions of choice of law and choice of forum would still exist with respect to most torts.

4. Indian tribes/nations, the State of Arizona, political subdivisions of the state, public bodies such as school districts and flood control districts carrying on activities within Arizona's Indian tribes/nations and other entities doing business within Arizona's Indian tribes/nations should consider alternative dispute resolution ("ADR") provisions in agreements.

ADR approaches to dispute resolution are becoming increasingly important as parties realize that they cannot afford the costs of litigation. When this traditional dispute resolution approach is complicated by jurisdictional disputes, the time and cost of litigation is increased further. ADR may provide a more efficient method.

In the context of disputes affecting or involving Arizona's Indian tribes/nations, ADR may provide a way out of the impasse which often exists when Indian tribes/nations and litigants insist on a tribal forum, while the state and non-Indian litigants insist on a state forum. Such ADR approaches as use of agreed-on experts, arbitration and mediation do not compromise the sovereignty of either party. An ADR agreement which provides that

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its determination may be recorded as a judgment of both the state and tribal court provides a means of resolving both the substantive and the jurisdictional dispute. Such an ADR approach has been taken by the Colorado River Indian Tribes and the Town of Parker to resolve mutual issues. (Appendix C).

5. The State of Arizona and Arizona’s Indian tribes/nations should consider establishment of procedures whereby courts in one jurisdiction can certify questions to the highest court of the other jurisdiction.

In Arizona a federal court having a question regarding Arizona law may certify that question under the procedure set forth in Rule 27 of the Rules of the Arizona Supreme Court.

A similar procedure might well be beneficial for Indian courts with questions of state law and for state courts with questions of tribal law. By certifying a question, the certifying court would not be required to guess how the other sovereign would decide an issue requiring interpretation of its law without relinquishing jurisdiction over the case.

The use of certified questions by tribal and state courts would be consistent with a “government to government” approach to the state/Indian tribe/nation relationship indicating mutual respect between these court systems.

C. Intergovernmental Agreements

1. We recommend that a climate for consensus and cooperation between the State of Arizona and Arizona Indian tribes/nations be concretely established by proclamation by the governor and the chief executive of each Arizona Indian tribe/nation and by resolution of the Arizona Legislature and the legislative bodies of Arizona’s Indian tribes/nations embracing a “government to government” approach in all interaction.

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On a national level, the United States has recognized that in its dealings with Indian tribes/nations it is one sovereign dealing with other sovereigns. The respect demonstrated by this government to government” approach enhances the relationship between the parties as well as the likelihood of harmony and cooperation.

We recommend that the leaders of the State of Arizona and its Indian tribes/nations follow this “government to government” approach in their dealings including the entry of intergovernmental agreements and compacts and the passage of uniform laws as recommended here and as appropriate.

2. Intergovernmental Agreements (“IGA’s”) should continue to be used by Arizona and the Indian tribes/nations in Arizona to cooperatively and efficiently provide facilities and services.

IGA’s between the State of Arizona and Arizona’s Indian tribes/nations as authorized by A.R.S. §11-952 and by the Constitution and/or laws of Arizona’s Indian tribes/nations have been used productively for many years by many agencies of the State of Arizona, many Arizona counties, cities and towns and many Arizona Indian tribes/nations.

For example, there is presently a draft memorandum of understanding being developed between the Coconino County Juvenile Court and the Navajo Tribe/Nation Family Court for courtesy supervision of the probation of minors who are placed on probation by one court system, but who reside in the jurisdiction of the other court system. (Appendix C)

This draft provides that each court system will assume the same responsibilities and have the same rights. It is consistent with the “government to government” approach, and also provides for the efficient use of personnel and limited financial resources. Equally important, it provides more

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effective supervision of probationers than might be the case if each court system tried to provide that supervision itself in the other jurisdiction. Thus, the likelihood of success of the probation program is significantly enhanced.

A similar program is in effect in Apache County and Apache County also has some reciprocity with the Navajo Nation in supervision of adult probationers.

In order to get a feel for the present utilization of IGA's to which the state and an Indian tribe/ nation are parties, the Forum conducted research at the Secretary of State's Office where IGA's approved by the Attorney General or affecting more than one county are filed pursuant to A.R.S. §11—952.0.

For 1989 the following IGA's or amendments to IGA's with Arizona Indian tribes/nations were recorded by the following state agencies:

DES	130
AHCCS	11
Health	9
Commerce	7
Governor's Office--Child	4
ADOT	4
Education	2
Environmental Quality	1
Library-Archives	<u>1</u>
TOTAL	169

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For 1990 (from January 1, 1990 through October 3, 1990) the figures are as follows:

DES	114
AHCCS	9
Health	11
Commerce	8
Governor's Office--Child	1
ADOT	2
Education	0
Environmental Quality	0
Library-Archives	0
Administration	5
Game & Fish	<u>1</u>
TOTAL	151

With respect to participation by Arizona's Indian Nations, the review showed the following results for 1989:

Gila River	23
Navajo	19
Tohono O'Odham	18
White Mountain	17
San Carlos	15
Hopi	14
Hualapai	11
Pascua Yaqui	10
Salt River	10
Yavapai	7
Colorado River	7
Cocopah	3
Ft. Mojave	3
Havasupai	3
Ak-Chin	2
Ft. McDowell	2
Quechan	2
Tonto	1
Kaibab	1
Camp Verde	<u>0</u>
TOTAL	168

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For 1990 (January 1, 1990 through October 3, 1990) the results are as follows:

Gila River	16
Navajo	18
Tohono O'Odham	9
White Mountain	11
San Carlos	8
Hopi	15
Hualapai	10
Pascua Yaqui	10
Salt River	12
Yavapai	7
Colorado River	12
Cocopah	3
Ft. Mojave	2
Havasupai	3
Ak-Chin	2
Ft. McDowell	3
Quechan	3
Tonto	2
Kaibab	2
Camp Verde	0
TOTAL	148

- 3. We encourage the state's universities to undertake a project to catalogue and collect existing intergovernmental agreements between the state and its political subdivisions and Indian tribes/nations as a resource for all governmental entities in Arizona.**

This catalogue would promote the sharing throughout the state of ideas and experience regarding cooperation between Indian and non-Indian governments. As a beginning to this project, the Forum has compiled a compendium of existing IGA's between the Arizona Department of Economic Security and Arizona tribes/nations. (Appendix C)

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4. The State of Arizona and Arizona's Indian tribes/nations should consider multi-party IGA'S or compacts.

While ordinarily IGA's involve two contracting parties, the statute provides that "two or more public agencies" can enter into the IGA. Given that Arizona has twenty-one (21) federally recognized Indian tribes, multi-party IGA's or compacts have the advantage of efficiency, uniformity, and consistency but cannot be tailored to the circumstances of a particular tribe as can an individual IGA.

The drafting and review process for IGA's, particularly those involving the Arizona Attorney General's office, will be considerably expedited if either multi-party IGA's or compacts are utilized. Such IGA's or compacts would be more widely disseminated and understood, thus more effective.

5. We also recommend that Arizona's Indian tribes/nations and their constituent branches such as the judicial systems enter IGA's with other Indian tribes/nations where appropriate.

Congressional action in the Department of Defense Appropriations Act for FY 1991, Pub. L. 101-511, 104 Stat. 1856 (§8077) suspended the effect of the decision of the United States Supreme Court in Duro v. Reina 110 S. Ct. 2053 (1990) (which held that Indian tribes/nations lack criminal jurisdiction over non-member Indians). In the event that Duro again becomes effective, IGA's which provide cross-appointment of judges are a potential method of dealing with offenses committed by non-member Indians within another Indian tribe/nation.

An example of the use of IGA's by tribal judiciaries is a draft IGA between the Navajo and Hopi Nations for the transfer of children taken into custody in one jurisdiction whose residence is in the other jurisdiction. (This draft provides for use of children's detention facilities; contacts with the legal custodians of the children;

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transfer of the children and the court proceedings and cooperation in future court and related proceedings). Alternatively, the Interstate Compact on Juveniles (A.R.S. §8-361 et. seq.) could serve as a model for agreements regarding transfer of Indian juveniles.

6. Questions of sovereign immunity in the enforcement of IGA's ought to be addressed and resolved whenever possible. When waiving sovereign immunity in specific agreements is not acceptable to an Indian tribe/nation, IGA's containing ADR provisions or which require no remedy beyond termination of the agreement may still be used.

While the State of Arizona has largely delineated its own sovereign immunity in statute, sovereign immunity remains a significant issue for many Indian tribes/nations.

While the Federal Indian Self-Determination Act (Pub. L. 93-638, 25 U.S.C. §§450 et seq.) and contracts entered into by tribes and the United States pursuant to this Act provide for limited waivers of such immunity. (25 U.S.C. §450 (f) (c)) IGA's are not explicitly covered by this law.

In some circumstances, such as the expenditure of state (taxpayer) funds for construction of facilities within an Indian tribe/nation, it is important that the state have reasonable assurance of both a right to have the IGA's commitments honored and a remedy in the event of breach. Thus, in such circumstances the sovereign immunity issue must be confronted and resolved, perhaps through such techniques as ADR agreements discussed above.

In other circumstances, such as reciprocal supervision of probationers, if a breach occurs, the IGA can just be terminated with minimal adverse consequences flowing from the breach and the existence of sovereign immunity. The lack of an effective remedy in this circumstance is of relatively minor importance.

We want to make clear that we do not assume that either Arizona's Indian tribes/nations or the state will breach agreements. The present record suggests that both the state and Arizona's Indian tribes/nations have honored their agreements.

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It may be possible to deal with sovereign immunity questions through uniform acts as well as IGA's. Given the fact that some Indian tribes/nations equate "sovereign immunity" with "sovereignty," careful analysis is needed before action is taken in this area so that the real and felt needs of all concerned are respected.

- 7. We recommend that the state and Arizona's Indian tribes/nations continue or consider IGA's in many areas, including, but not limited to:**
- a. child custody
 - b. child support
 - c. supervision of probationers and parolees
 - d. return of dependent, delinquent, and neglected minors
 - e. mental health evaluation and commitment
 - f. juvenile placement
 - g. use of experts (social service; counselors; psychiatrists, etc.)
 - h. sharing of facilities
 - i. extradition
 - j. enforcement of protective orders in spouse abuse cases and reciprocal mutual injunctions in dissolution proceedings

Arizona's population is highly mobile. In addition to the usual pressures which cause individuals and families to change their residences, most of Arizona's Indian tribes/nations are areas of high unemployment. This means that a significant number of tribal members move to locations outside their Indian tribes/nations for employment purposes. At the same time, because of their strong ties to

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their land, families and extended families, many Indian people who have established residence outside their Indian tribes/nations return to these tribes/nations for varying periods of time.

This population mobility often means that one judicial system (state or tribal) may have entered an order for child custody, child support or an order arising from a juvenile or a criminal proceeding, while the affected person may have changed residence so that person is no longer physically present within the territorial jurisdiction of that judicial system.

IGA's and/or uniform acts may provide useful tools to assure protection of the best interests of the children and others affected by court orders.

Most Arizona Indian tribes/nations lack institutions for the care and treatment of the mentally ill. While there are limitations in the programs and facilities of the State of Arizona for the mentally ill, these programs and facilities are better than those available within Arizona's Indian tribes/nations. IGA's and/or uniform laws under which Arizona's programs and facilities might be used for persons adjudicated incapacitated in tribal mental health proceedings should prove beneficial.

IGA's should prove useful and cost-efficient with respect to facilities (courtrooms; juvenile detention facilities; alcohol and drug rehabilitation centers, etc.).

IGA's may enhance the availability of experts in such areas as psychiatry, psychology, medicine, traditional ceremonies, and healing procedures presently available to the "other" system which for one reason or another would otherwise either lack access to such persons or find access difficult or more expensive.

- 8. We also suggest that existing interstate compacts be considered as models for compacts or IGA's between Arizona and Arizona's Indian tribes/nations or among Arizona's Indian tribes/nations.**

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Our review of some of the compacts to which Arizona is a party shows that some of the subject areas of existing compacts are the same areas in which IGA's might be used, and some of the substantive provisions of such compacts might be incorporated into IGA's. These compacts include the Interstate Compact on Juveniles (A.R.S. §§8-361 et seq.), the Interstate Compact on the Placement of Children (A.R.S. §§8-548 et seq.), and the Interstate Compact for the Supervision of Parolees and Probationers (A.R.S. §§31-461 et seq.).

D. Uniform Laws

- 1. The State of Arizona and Arizona's Indian tribes/nations should consider adopting the "Uniform Enforcement of State and Tribal Courts Judgments Act" ("the "Uniform Act) which the Forum has drafted. (The Uniform Act appears at Appendix E.)**

While Arizona has adopted many uniform laws, such laws as may provide for recognition of the actions of other jurisdictions only provide for the recognition of actions of other states, not the actions of Indian tribes/nations. While many Arizona Indian tribes/nations have adopted Arizona and federal law expressly or by reference, uniform acts are adopted in specific areas to assure common legal provisions apply in all jurisdictions which adopt the uniform act.

The Forum has concluded that enforcement of judgments is both an important and appropriate subject area for adoption of a uniform act. Approval of the uniform act would provide an easy method for the courts of the State of Arizona and the courts of those Arizona Indian tribes/nations adopting the uniform act to recognize and give effect to the orders and judgments of courts in the "other" jurisdiction.

We recognize that under existing law, a party obtaining a judgment in one jurisdiction may bring an action based on that judgment in another jurisdiction seeking recognition of the judgment based upon comity. Such actions, however, are often expensive and time consuming. The uniform act would reduce the time and cost incurred in enforcing judgments.

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An ancillary benefit from the uniform act would be that if a person who had an obligation pursuant to a judgment rendered in one jurisdiction realized that obligation could not be escaped by moving to another jurisdiction, then the person would be more likely to fulfill the obligation without the need for further legal proceedings.

2. The State of Arizona and Arizona's Indian tribes/nations should consider amending and/or adopting existing uniform acts making them applicable to Indian tribes/nations.

The Uniform Act described above represents one type of uniform act which would be of benefit. Arizona has adopted many uniform acts covering such matters as child custody and support, testimony of witnesses, commercial transactions, motor vehicles, probate, landlord and tenant, etc.

In many cases, Indian tribes/nations are not specifically mentioned in such acts. We suggest that existing uniform acts be amended so that they make specific reference to Arizona's Indian tribes/nations as potential participants and that when Arizona adopts new uniform acts that they explicitly include Arizona's Indian tribes/nations as potential participants in such acts.

We also encourage Arizona's Indian tribes/nations to consider adopting such uniform acts as they deem appropriate as a means of reducing differences in law between state and tribal jurisdictions where such differences can be reduced consistent with tribal culture.

E. Federal Legislation

1. The Indian law section of the State Bar of Arizona should carefully consider the need for federal legislation to resolve jurisdictional issues and devise a framework for evaluating and promoting proposed legislation which involves all interested Arizona governmental entities and interested organizations and individuals.

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In light of the United States Congress recognized legal authority over Indian affairs, federal legislation is a powerful tool for resolving existing jurisdictional issues which cannot be fully resolved by state or tribal authority. Such legislation appears likely at some point to address the consequences of the United States Supreme Court's Duro decision.

While federal legislation can provide clear resolution to jurisdictional issues, it is more difficult to manage and to accomplish due to its nationwide impact. A clear consensus in favor of any such legislation would be needed in Arizona's Indian and legal communities in order to have any chance of success in securing national support. In considering federal legislation the Indian Bar section should invite participation by state and tribal government representatives and organizations such as the Intertribal Council of Arizona and the Southwest Indian Judges Association.

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VII. APPENDIX

A. Minutes of Forum Meetings

The Arizona Court Forum met four times during 1990: February 23, July 25, October 20, and November 30. The minutes of these meetings are attached.

ARIZONA STATE/TRIBAL JURISDICTION FORUM

February 23, 1990

Minutes

The initial meeting of the Arizona State/Tribal Jurisdiction Forum was called to order at 8:50 a.m. on Friday, February 23, 1990 at the Phoenix Airport Hilton, Phoenix, Arizona by David L. Withey.

Members of the forum in attendance were: Hon. John Claborne, Court of Appeals, Division One, Phoenix, Arizona; Hon. Michael Irwin, Presiding Judge, Superior Court in Coconino County, Parker, Arizona; Hon. Sheila McCord, Judge and President, Southwest Indian Court Judges Association, Mohave Tribal Court, Needles, California; Hon. Ned Norris, Tohono O'odham Judiciary, Sells, Arizona; Siera Russell, Coordinator of Indian Programs, College of Law, Arizona State University, Tempe, Arizona; Lawrence A. Ruzow, Forum Consultant, Window Rock, Arizona; Claudine Sattler, Court Solicitor, Navajo National Judicial Branch, Window Rock, Arizona; David L. Withey, Staff Attorney, Arizona Supreme Court, Phoenix, Arizona; and H. Ted Rubin, Project Director, National Center for State Courts, Institute for Court Management, Denver, Colorado.

Mr. Rubin provided a report based upon his familiarity with the SJI grant concerning the purposes behind the State/Tribal Jurisdiction project including the purposes of the Conference of Chief Justices of State Supreme Courts in initiating this project.

The concept of the forum is to bring together leaders from state and tribal court systems to address civil jurisdiction issues and to initiate an action plan to assist in resolving these issues.

The states of Arizona, Oklahoma, and Washington have been selected to participate as forum sites. The forums are comprised of four state court leaders, three tribal court officials, and a forum consultant. It is anticipated that in the final year of the project, a national conference will be held to present forum results of the three states to a larger group of state court and tribal court officials.

Ted Rubin pointed out that the project calls for an independent evaluation, based on minutes of meetings, reports prepared by the consultant, and telephone interviews of some of the members. The Coordinating Council will select an independent evaluator at its June 1990 meeting who will file a report with the SJI indicating strengths and weaknesses of the project.

The forum members selected Judge John Claborne of the Court of Appeals, Division One as Chair and Judge Ned Norris of the Tohono O'odham Nation as Vice Chair.

Forum members proceeded to discuss jurisdictional issues facing Arizona's state and tribal courts. The discussion revolved around the following seven topics:

Jurisdictional Issues

1. Domestic Relations
 - A. Child Custody/Visitation
 - B. Child Support Enforcement
 - C. Dissolution
2. Mental Health Commitment
 - A. Due Process in Tribal Courts
 - B. Comity by State Courts
3. Indian Child Welfare Act
 - Attorney Education
4. Lack of Uniformity in Recognition of Judgments
5. Unavailability of Tribal Codes, court Decisions, and Bar Membership Information
6. Imposition of State Justice System on Tribal Court
7. Choice of Law Problems
 - Availability of Tribal Law

Larry Ruzow distributed a Basic Tribal Court Matrix which could, when completed, be beneficial in obtaining information with respect to tribal courts. He suggested that the matrix could be a ready reference if published in the Arizona Bar Directory each year. It would indicate the availability of a tribal code, how to get it, where the tribal courts are, what the basic rules are an Arizona attorney coming into the tribal court would need to know, and a contact person to provide assistance to attorneys. It was also suggested that the State Bar Directory contain a listing of attorneys who are admitted in the tribal courts.

Discussion followed regarding ASU's College of Law compilation of a tribal courts directory containing names, addresses, phone numbers, etc. It was also pointed out that Arizona State University and the University of Arizona law libraries have updated tribal codes available.

Judge Norris expressed the need to solicit input from other tribes concerning the work of the forum before committing to an action agenda. The Bureau of Indian Affairs and the Southwest Indian Judges Association were suggested as potential sources of resources to implement forum recommendations.

Forum members discussed a wide range of approaches for addressing the jurisdictional issues identified. This discussion can be summarized in terms of the following eight strategies:

Strategies

1. Intergovernmental Agreements
 - A. Child Custody/Support
 - B. Mental Health
 - C. Attorney General Cooperation
2. Legislative Action
 - A. Uniform Acts - UCCJA, URESA, Judgment Enforcement
 - B. Legislator/Tribal Councilman Education/Interaction
3. Comity
 - A. Procedural Guidelines for Tribal Courts to Ensure State Court Enforceability
4. State/Tribal Multi-Professional Task Forces
 - A. Mental Illness
 - B. ICWA
5. Publication of Tribal Laws, Cases, Bar Membership
6. Public Hearings
7. Judges - Cross Visitation
8. Education

Education possibilities discussed included seminars for tribal court judges and non-Indian attorneys at universities throughout the state including the ASU College of Law Indian Law Program. It was also suggested that the State Bar of Arizona could incorporate seminars on tribal court practice into the CLE program; that perhaps the State Bar Convention could include an Indian law seminar; that the Annual Judicial Conference could offer some Indian law topics; and that tribal judges of all the tribes in the State of Arizona be invited to participate and become members of these conferences.

David Withey suggested use of Orientation Manuals to educate judges about jurisdictional issues. Chief Justice Tso is considering an orientation program for new Navajo Nation judges. This might include providing each new judge with a manual. Of course, lack of revisions to the tribal code might be a drawback in producing a manual for new tribal judges. A chapter on tribal law and jurisdiction including matrices could be added to the manual already provided to state judges. Narrative explanation and case references could also be included in this chapter.

Judge Norris added that he has a copy of the New Orientation Manual for state court judges and finds it very useful. When he gets a new judge, he gives the volumes to the judge and tells the judge to read them.

David Withey also suggested that since the AOC regularly coordinates with DES concerning child support enforcement, this could be a prime area for state and tribal court cooperation in developing uniform child support guidelines and collection procedures.

Larry Ruzow and David Withey will integrate comments of the initial forum meeting for members' review.

Judge Claborne proposed that each member provide feedback in the form of additional ideas and/or topics. Judge Claborne will coordinate compilation of members' suggestions and formulation of a proposed action agenda. Members' suggestions and the proposed agenda will be sent to each member of the forum prior to the next meeting.

The next meeting of the forum will be held at the Motor Inn in Window Rock on Friday, May 11, 1990; the third meeting will be at Sunrise on the White Mountain Apache Reservation on Friday, August 17, 1990; and the fourth and final meeting will be held in Tucson on Friday, November 16, 1990 at a location yet to be determined.

The meeting was adjourned at 3:20 p.m.

ARIZONA COURT FORUM

Minutes

July 25, 1990

Lakeside, Arizona

The second meeting of the Arizona Court Forum was called to order by the Honorable John Claborne at 9:00 a.m. on Wednesday, July 25, 1990 at the Pinetop-Lakeside Town Hall in Lakeside, Arizona.

Members of the forum in attendance were: Hon. John Claborne, Chair; Hon. Ned Norris, Vice Chair; Hon. Sheila McCord; Claudine Sattler; Siera Russell; Lawrence A. Ruzow, forum consultant; and David L. Withey, staffing the forum for the Administrative Office of the Courts.

Guests included Kay A. Lewis, Chief Judge, White Mountain Apache Tribal Court; Mary Jo Stahl, White Mountain Apache Legal Department; Catherine Aragon, Fort Apache Legal Aid Society; and Tony Machukay, Arizona Commission of Indian Affairs.

Judge Claborne welcomed forum members and guests. The forum proceeded to approve the minutes of the last meeting. The minutes were distributed to the guests in attendance. Judge Claborne described the general purpose of the forum and asked David Withey to provide background concerning the history of the project of which the forum is a part.

Larry Ruzow provided a report concerning the Coordinating Council meeting of June 5, 1990 in Guthrie, Oklahoma. Larry reported that the Coordinating Council is seeking to focus on the people problems that are complicated by the jurisdictional issues which the forum is addressing rather than Indian vs. Anglo viewpoints. Judge Sheila McCord agreed; reporting that Chief Justice Tso had suggested a practical approach to jurisdictional issues. She also suggested Arizona should consider the possibility of holding a symposium like the Oklahoma Sovereignty Symposium.

Judge Norris expressed concern about the Duro case recently decided by the United States Supreme Court. He suggested that tribes should develop civil sanctions including forfeitures as a means of controlling non-Indian behavior on reservations in light of the Duro case. Judge Claborne stated the Duro case and another recent case involving zoning indicate a need for cooperation between states and tribes in the face of erosion of Indian tribes' legal position. This cooperation should be aimed at enhancing tribes' ability to make decisions regarding their own citizens. Judge Lewis reported good cooperation between the White Mountain Apache Tribal Court and state courts in a variety of areas.

Judge Norris suggested that cooperation is particularly needed in the area of child abuse. Now that the Bureau of Indian Affairs is encouraging its employees to report child abuse, the issue of whether the reports should go to the tribe or to Arizona child Protective Services has arisen.

Judge Claborne described a project undertaken in Apache County when he was presiding judge to improve the ability of the juvenile court to serve the needs of Navajo children. The approach was to ask Navajo parents, Navajo tribal officials, and persons who work with Navajo children to identify what they perceived to be the needs of Navajo children who come into contact with the juvenile justice system. A report was produced based upon this needs assessment. The next step is to identify funding to allow implementation of programs to serve the needs identified. Claudine Sattler reported the Navajo tribe now has a grants specialist who may be able to pursue funds for this purpose. Judge Claborne also mentioned agreements between the Navajo tribe and Navajo and Apache counties providing for juvenile detention which give the tribal courts a fuller range of consequences to be used in modifying the behavior of Navajo children.

The forum proceeded to discuss cooperation concerning probation services. Claudine Sattler indicated the Navajo tribe plans to work with county probation departments sharing documents and holding probation revocation hearings on or off the reservation, depending on the residence of the probationer. Judge Lewis indicated county probation officers work well with the White Mountain Apache Juvenile Court and the White Mountain Apache Probation Department. Larry Ruzow noted the public need to uphold the law regardless of jurisdictional lines. Judge Norris stated Pima County requests courtesy supervision by the Tohono O'odham Tribal Court and Probation Department. The tribe receives no compensation for these services. This system has worked well though problems do arise when state and tribal probation officers disagree regarding the need to revoke probation.

Discussion turned to strategies for enhancing cooperation between state and tribal courts. Judge Norris and Tony Machukay observed that intergovernmental agreements are often politically problematic due to tribal perceptions that by entering these agreements, the tribe is surrendering authority or sovereignty. David Withey expressed the need to reassure tribes that entering intergovernmental agreements enhances rather than diminishes tribal sovereignty.

Judge Claborne suggested the forum's primary task is to produce a report which would be a forum for ideas for achieving cooperation between state and tribal courts. These ideas can be divided into at least three categories:

1. Informal cooperation between judges on a personal level.

2. Intergovernmental agreements between the state and tribes in such areas as child support, child custody and mental health.
3. Legislative cooperation both on the personal level between legislators and councilmen and formally through the adoption of uniform acts by the state and tribes.

Judge Norris brought up the fundamental need for education of state judges about tribal court and tribal judges about state court. Education could erase misperceptions about the legal basis, functions, processes, and capabilities of tribal courts. The judges could learn about the due process expectations of each other's courts. Judicial education would increase state and tribal judges' understanding of the appropriate circumstances for transfer of jurisdiction, enforcement of orders of the other court system, and overall cooperation. Siera Russell suggested such an educational program could be accomplished through a symposium at Arizona State University which she would coordinate involving both tribal and state court judges and structured to parallel the forum's approach to jurisdictional cooperation.

The forum proceeded to discuss means of formalizing cooperation between state and tribal courts. Claudine Sattler stated the Navajo Nation would like to be a signator to uniform acts so long as other states cannot take advantage of the act unless they recognize actions of the Navajo tribe under the act. David Withey noted that the Arizona Legislature could amend any uniform act to permit participation by tribes which adopt the act. Also discussed was the possibility of state and tribal representatives adopting model acts concerning various subjects which could then be enacted by the state and any tribes which choose to participate. Larry Ruzow suggested the use of model intergovernmental agreements between courts in order to ensure comity in the enforcement of judgments. It was suggested that minimum procedural standards be developed for various types of proceedings. When tribal courts adhere to these standards, the parties could be assured the tribal court order would be honored in state courts and by state agencies. Both Judge Norris and Judge McCord expressed the concern that state court judges and practitioners become familiar with and respect tribal court procedures, particularly in enforcement of judgments and extradition.

Larry Ruzow reiterated the primary need to make tribal law available to all persons who may have business before the tribal courts. He described the as yet unsuccessful efforts to identify an accessible, comprehensive, current compilation of tribal codes. Larry explained that without access to tribal law, litigants would choose to assert their rights in other forums thus undermining cooperative arrangements which may have been achieved between state and tribal courts. This increases the cost of litigation as the jurisdictional issues as well as the underlying substantive issues must be litigated in each case.

David Withey suggested that tribal law will not become truly available unless tribes agree that making their laws available is in their own self— interest. The tribes would then place a priority upon organizing, circulating, and updating their laws. The forum could facilitate this effort on a statewide basis. Judges McCord and Norris indicated as President and Vice President of the Southwest Indian Court Judges Association, they would encourage response by tribes who have not yet responded to the Arizona State University requests for copies of tribal codes and ordinances.

The forum decided to cancel its meeting scheduled for September 21, 1990 in Window Rock, Arizona due to a conflict with a National Tribal Judges' meeting. Instead, the forum tentatively scheduled its next meeting for Saturday, October 20, 1990 to coincide with the Indian Town Hall now scheduled for October 18 and 19, 1990 at the Airport Hilton in Phoenix, Arizona.

Judge Claborne proceeded to appoint committees in the following areas with the indicated membership.

1. Education - Judge Ned Norris, chair; Siera Russell and Judge Sheila McCord
2. Legislation - Claudine Sattler, Chair
3. Comity - Judge Claborne, Chair
4. Intergovernmental Agreements - Members to be designated

Judge Claborne will appoint members not in attendance to committees at a later time. The Education Committee was assigned to address access to tribal law as well as general educational needs. The four committees are to meet in September to formulate concrete ideas which will be considered by the forum at its October meeting for inclusion in the forum's final report. Judge Claborne envisions that the contents of the draft report will be outlined based upon committee reports at the forum's October meeting.

In final business, Judge Claborne indicated he would be distributing a "Law Review" article concerning tribal court jurisdiction. He indicated he would be attending the Indian Town Hall prior to the forum's October meeting and encouraged other members to do so as well. Staff will coordinate with the Town Hall concerning a presentation about the forum. Members of the public were invited to submit comments concerning subjects addressed by the forum.

The forum was adjourned.

ARIZONA COURT FORUM

Minutes

October 20, 1990

Tempe, Arizona

The third meeting of the Arizona Court Forum was called to order by the Honorable John Claborne at 9:30 A.M. All, on Saturday, October 20, 1990 at the Arizona State University, College of Law in Tempe, Arizona.

Members of the forum in attendance were: Hon. John Claborne, Chair; Hon. Ned Norris, Vice Chair; Hon. Michael Irwin; I-Ion. Sheila McCord; Ms. Siera Russell; Ms. Claudine Sattler; Lawrence A. Ruzow, forum consultant; and David Withey, staffing the forum for the Administrative Office of the Courts.

Guests in attendance were, Karen Waldrop, Administrative Office of the Courts; Robert Brauchli, White Mountain Apache Tribe; Marsha Klinker, Administrative Office of the Courts; Anslem Roanhorse, Arizona Commission of

Indian Affairs; Hollis Chough, Northwest Intertribal Courts; Michael C. Nelson, Superior Court in Apache County; Manual Johnson, Intertribal Council of Arizona; Gloria Fohrenkam, Department of Economic Security; Marston Zaye, Sr., San Carlos Apache Tribal Court; Violet (P0) Lui, Pascua Yaqui Tribal court; Richard B. Wilks, Salt River Pima Maricopa Indian Community; Sandra Wilks, Community Legal Services; Ian A. Macpherson, Arizona Attorney General's Office; Jackson Henry, Sr., San Carlos Tribal Court; Terry L. Janis, University of Arizona.

Judge Claborne welcomed forum members and guests. The forum approved the minutes of the July 25, 1990 meeting which were previously distributed to members and guests.

Judge Claborne explained the purpose of the forum in the context of the national project directed by the Coordinating Council of the Conference of Chief Justices. He emphasized the forum's role is to make recommendations to be widely distributed in Arizona which may be adopted by the state and tribes which choose to do so.

Judge Claborne introduced the Legislation, Intergovernmental Agreement and Education Committees whose chairs would be reporting on the work of their respective committees. The work of each of these committees is reflected in reports distributed to members and guests and attached to and incorporated herein by reference. Judge Claborne invited guests to offer comments and suggestions after each committee report.

Judge Claborne reported that the work of the Comity Committee which he chaired had not proceeded due to his involvement in a Court of Appeals case on this issue. He suggested the Comity Committee be changed to the Committee on State/Tribal Jurisdiction.

LEGISLATION

Claudine Sattler, chair of the Legislation Committee, reported that committee began by reviewing uniform acts to assess the possibility of tribes becoming signatories to those acts. The committee found uniform acts with a couple of exceptions apply to states and have been interpreted to not apply to tribes.

Ms. Sattler reported that the committee decided to develop a uniform act for use exclusively intrastate to which the State of Arizona and Arizona Indian tribes could become signatories. The committee developed a proposed "Uniform Enforcement of State and Tribal Court Judgments Act" which could be joined by any tribe located wholly or partially within Arizona by adoption of the act. This act was drafted to address enforcement of all judgments with the recognition the act could be limited later to particular types of judgments such as child support.

The committee used the Arizona Foreign Judgments Act as a model modifying it as the committee deemed appropriate. Ms. Sattler described some of these adaptations particularly a certification that the order has not been modified and an expansion of defenses. Ms. Sattler explained the committee decided not to limit enforcement to orders of courts of record relying instead upon the obligated party to raise any appropriate defenses based upon the process followed leading to the order rather than the nature of the court issuing the order.

Ms. Sattler noted that the Navajo nation enforces the orders of the courts of other jurisdictions on a case-by-case basis following Navajo judicial precedent. She invited guests to comment upon the practicality of the proposed uniform act for the tribes represented.

Robert Brauchli, tribal attorney for the White Mountain Apache Tribe, suggested inclusion of language clearly stating the procedure by which tribes become parties to the uniform act. Such language would indicate respect for tribal sovereignty. Mr. Brauchli referred to the extradition act providing for the entry of compacts between the state and tribes as an example of this.

Richard Wilks, tribal attorney of the Salt River Pima Maricopa Community, suggested a compact approach to enforcement of judgments is preferable to a uniform act in that it allows the enforcement process to be tailored to the particular circumstances of each tribe. Larry Ruzow responded that the use of individual compacts between the state and the 21 Indian nations in Arizona and between each of those Indian nations could result in a proliferation of hundreds of compacts.

Judge Claborne described an Arizona Court of Appeals case in which the eligibility of the Navajo nation to become a party to the Uniform Act to Secure the Attendance of Witnesses was at issue. The non-Indian witnesses subpoenaed argued that the Navajo nation is not a state or territory under the act and that their constitutional rights and certain privileges would not be protected in tribal court. The Court of Appeals upheld the enforcement of the subpoenas under the act based upon the intent of the act to promote criminal prosecution, the Indian Civil Rights Act protections in tribal court and the sophistication of the Navajo tribal courts.

Mr. Wilks noted that courts across the county have generally found the term “state and territory” does not include Indian tribes. Judge Nelson of the Apache County Superior Court suggested the reciprocal acts could be amended to include Indian tribes as potential parties.

Judge Chough of the Northwest Intertribal Courts and the Arizona Commission of Indian Affairs took strong exception to consideration of the “Sophistication” of a tribal court by the Arizona Court of Appeals. He questioned what this term actually means. 1-Ic suggested several ways tribal courts are quite sophisticated. Several forum members agreed with this assessment. He expressed concern that small tribes were being neglected by forum proposals.

David Withey explained the forum’s approach was not to require tribes to take any particular approach to enhancing cooperation with state courts but rather to provide a variety of options which tribes can choose to pursue. Some tribes may choose to maintain completely independent judicial systems while other tribes may choose to promote interaction between tribal courts and state courts. Mr. Wilks suggested a variety of options be prepared allowing plenty of time for the tribes to react.

INTERGOVERNMENTAL AGREEMENTS

Judge Irwin, chair of the Intergovernmental Agreement Committee, reported that committee had conducted a general review of existing IGAs between the state and Indian tribes on file with the Secretary of State’s

Office. The committee's report indicates from January 1 through October 3, 1990, 151 such IGAs were filed. Judge Irwin indicated the committee recommends a survey of local governments and tribes to detect agreements not required to be filed with the Secretary of State. He reported the committee is aware of IGAs currently in effect between the Navajo nation and Coconino County for juvenile probation services and Apache County for juvenile detention services.

Judge Irwin noted a state statute provides authority for the state to enter IGAs with Indian tribes. Tribal authority is apparently based upon Indian Reorganization Act constitutions, tribal ordinances or tribal practice.

Mr. Hrauchli raised the need for IGAs with Superior Courts concerning mental incompetency cases. Judge Claborn indicated he had heard such a case involving a Navajo while a superior court judge in Apache County. In that case he recognized the tribal court commitment order. The Attorney General took the position that IGAs should be entered between tribes and executive branch agencies resolving responsibility for these cases. Gloria Fohrenkam of the Arizona Department of Economic Security suggested the need for IGAs concerning the placement of Indian children particularly involving tribal courts in out-of-state placements.

Ian Macpherson of the Arizona Attorney General's Office recommended the use of compacts and stated a concern about the enforceability of IGAs with tribes due to sovereign immunity. He suggested inclusion of some method of dispute resolution. Mr. Wilks and Judge Irwin agreed this should not be a problem because the parties can just walk away from these agreements with no damages rather than having to litigate disputes.

EDUCATION

Judge Norris, chair of the Education Committee, reported some existing programs including the Arizona Supreme Court Judicial Conference, the Arizona Courts Association and local tribal court training are offered to tribal court personnel. These existing programs can be a means of educating both tribal judges about state courts and state judges about tribal courts. Additionally, the Education Committee proposes an annual conference of both state and tribal judges to address common legal issues. The first such conference is proposed to take place at Arizona State University College of law in the spring of 1991.

Judge Norris reported the Education Committee also recommends development of education/reference material pertaining to tribal courts for use by attorneys and state judges. These materials would include a tribal court directory containing a profile of each tribal court similar to the model attached to and incorporated herein by reference. David Withey suggested the development of a brief publication on Arizona tribal courts similar to the Arizona Judiciary booklet. The committee also identified the need for accessible and updated tribal codes and any written tribal court decisions.

Anslem Roanhorse of the Arizona Commission of Indian Affairs noted the need to coordinate educational efforts across state lines. Judge Nelson suggested the Southwest Indian Judges Association as a valuable resource for this.

Karen Waldrop, Education Services Division Director, informed the forum that the Administrative Office of the Courts is committed to including tribal court personnel in the educational programs of the Arizona judiciary. She indicated a mailing list of Arizona tribal court judges has been compiled and that a calendar of 1991 training events will be distributed to these judges. Ms. Waldrop said she would suggest the planning committee for the 1991 judicial conference consider a track of programs on Indian law and tribal courts.

Larry Ruzow described the pressing need for access to tribal codes. Mr. Wilks observed the tribal laws of most tribes simply consist of all tribal ordinances passed to date. Tribal ordinances and cases could be published and indexed by private publishing companies in the same manner as state laws and cases.

Manual Johnson of the Intertribal Council of Arizona stated small tribes want technical assistance revising tribal codes, particularly juvenile codes. Ms. Fohrenkam indicated the American Indian Law Center at the University of New Mexico provides such assistance. Terry Janis of the Office of Indian Programs at the University of Arizona informed the forum such technical assistance is available through the University of Arizona Law School clinical program. Siera Russell advised that such assistance as well as training programs for tribal judges, advocates and court personnel is also available through the Arizona State University College of Law Indian Legal Programs.

Judge Claborne consulted forum members and guests regarding a good date, time and location for the final meeting of the Arizona forum. It was agreed the meeting would be at 1:00 P.M. Friday, November 30, 1990 at the Arizona State University College of Law. Larry Ruzow agreed to prepare a draft report on the work of the forum in the format of the Arizona Commission on the Court report to be distributed to forum members for review prior to the meeting. Judge Claborne invited forum guests to send written comments concerning the work of the forum to David Withey at the Administrative Office of the Courts, 1314 North Third Street, Phoenix, Arizona 85004.

ARIZONA COURT FORUM

Minutes

November 30, 1990

Tempe, Arizona

CALL TO ORDER

The fourth meeting of the Arizona Court Forum was called to order by the Honorable John Claborne at 1:10 p.m. on Friday, November 30, 1990 at the Arizona State University College of Law in Tempe, Arizona.

Members of the forum in attendance were: Hon. John Claborne, Chair; Hon. Ned Norris, Vice Chair; Hon. Sheila McCord; Ms. Siera Russell; Lawrence A. Ruzow, Forum Consultant; and David Withey, staffing the forum for the Administrative Office of the Courts.

Guests in attendance were: Z. Simpson Cox, Cox and Cox, Phoenix; Frances Totsoni, ASU College of Law; Hon. Carl A. Muecke, U.S. District Court;

Hollis N. Chough, Commission on Indian Affairs; Gloria Fohrenkam, Department of Economic Security; Irene Barrow, Fresquez Law Offices; Jerry Derrick, ASU College of Law; Mary Shirley, ASU College of Law; Diane Enos, ASU College of Law; Fred Steiner, Snell and Wilmer; Violet Po Lui, Pascua Yaqui Judiciary; Sylvia Boutilier, Commission on Indian Affairs; Eric Henderson, House of Representatives; Rebecca Truty, U of A College of Law; Fritz Aspey, President, State Bar of Arizona; and Ella Shirley, Window Rock, AZ.

WELCOME

Judge Claborne introduced Forum members and welcomed guests to the meeting. He also reported that the Coordinating Council of Chief Justices will meet in Phoenix on January 11, 1991 to consider recommendations contained in the Forum's final report. Judge Claborne explained the Coordinating Council selected the states of Arizona, Oklahoma and Washington to identify means to better utilize existing channels and explore new avenues of cooperation between state and tribal courts. He also added that funding for the Forum project is provided through the National Center for State Courts.

Judge Claborne stated the purpose of this Forum meeting was to review the working draft of the report "State and Tribal Court Cooperation: Building Cooperation, an Arizona Perspective." The report has been submitted by Lawrence A. Ruzow, Forum Consultant, based upon information and analysis developed by Forum members working as Legislation, Education and Intergovernmental Agreement Subcommittees. The final report will be in the present format with changes based upon a section-by-section review at today's meeting.

Judge Claborne introduced Fritz Aspey, President, State Bar of Arizona, who is an active participant in state court/Indian tribal court affairs as well as the newly formed Indian Law Section of the State Bar of Arizona.

APPROVAL OF MINUTES

The minutes of the Arizona Court Forum meeting of October 20, 1990 were approved as submitted.

FORUM REPORT

Judge Norris suggested a new Introduction section be added which would contain a brief historical prospective regarding the origin and purpose of the project.

Judge Claborne reminded Forum members to complete and submit biographical sketches to Larry Ruzow for inclusion in the report.

Larry Ruzow noted Action Agendas will be used in the reports from each state to identify what needs to be accomplished with the information obtained from this group. The Arizona Action Agenda consists of recommendations in the areas of Education, Jurisdiction, Intergovernmental Agreements, and Uniform Laws.

Judge Claborne suggested a comment period be established for guests' comments to be submitted to the Forum. Comments regarding the report should be submitted by December 31, 1990 to David L. Withey, Administrative Office of the Courts, Arizona Supreme Court, 1314 N. Third Street, Suite 200, Phoenix, Arizona 85004.

Diane Enos, an ASU law student, commented there had been some concern expressed by Salt River tribal council members who were not asked to participate or provide input into Forum procedure.

Judge Claborne responded that as many tribal council members as possible were invited to participate. It was also pointed out that individuals who were in a position to make or change policy and members of tribal judiciary were contacted. Judge Claborne also explained that Forum members were selected by the Coordinating Council of Chief Justices based upon recommendations by Chief Justice Tso and Chief Justice Gordon. Larry Ruzow pointed out that the Forum orientation was toward the court systems of the state and tribes. Judge Norris added that the Forum solicited input from a number of tribal attorneys who serve as general counsel for tribes as well as tribal council members and tribal chairmen.

Larry Ruzow explained a national conference sponsored by the Conference of Chief Justices will be held in Seattle, Washington, June 30 - July 1, 1991. Participants will include Arizona, Oklahoma and Washington Forums who will report on their experience in attempting to establish cooperation and consensus between state and tribal courts.

The draft report was reviewed section by section with consideration given to suggested revisions from guests as well as Forum members.

Michael O'Connell, General Counsel, Hopi Tribe, suggested the issue of requests for certification of tribal law questions from the state courts and the issue of extradition be included in the Jurisdiction area of the report. David Withey explained that the Forum's primary focus had been civil jurisdiction, but the Forum did review the area of criminal jurisdiction in probation issues. Larry Ruzow suggested extradition could be added to the area of Intergovernmental Agreements and receiving requests for certification of tribal law questions from state courts could be added to the Jurisdiction area. David Withey asked Mr. O'Connell to provide a letter to him detailing his concerns regarding extradition matters that might be addressed in the report.

Siera Russell introduced research assistants Rachel Moses, a second year law student at Arizona State University and a member of the Colville Confederated Tribes, and Michael Lane, a third year law student at Arizona State University and a member of the Menominee Tribe. Ms. Moses and Mr. Lane have agreed to complete the tribal court profiles by working with chief judges of the tribal courts. These profiles will contain information on court jurisdiction, court personnel, facilities, cooperation with other jurisdictions, tribal law and court procedures, as well as some statistical information that tribes submit to BIA. A court jurisdiction questionnaire will also be completed to provide information regarding jurisdiction tribal courts might exercise. The research project will also include compilation of a list of major Arizona cases related to tribal jurisdiction as well as a list of IGAs that tribes have with other tribes and with state agencies.

Judge Claborne led discussion regarding an annual seminar sponsored by the State Bar of Arizona on state/tribal jurisdiction encompassing basic federal, state, and tribal case law updates. He suggested that since there is now an Indian Law Section of the State Bar, perhaps the State Bar could provide an annual seminar that would address ongoing conflicts between state tribal, and federal jurisdictions.

The meeting was adjourned at 4:30 p.m.

STATE AND TRIBAL COURT INTERACTION: BUILDING COOPERATION
AN ARIZONA PERSPECTIVE

B. Arizona Tribal Profiles

All Arizona Indian tribes/nations were invited to complete a profile form and jurisdictional survey. The attached responses were edited in the interest of achieving some uniformity in the profile format and jurisdictional survey results were summarized in the jurisdiction section of the profiles. As indicated in forum recommendations, it is hoped an interested organization will carry on the completion, maintenance and distribution of profiles on all Arizona tribes.

Research assistance for this project was provided by Rachel Moses whose work contributed greatly to the final product.

Profiles

Cocopah Indian Tribe
Colorado River Indian Tribe
Fort Mojave Tribe
Gila River Indian Community
Hopi Tribe
Kaibab-Paiute
Navajo Nation
Pascua Yaqui Tribe
San Carlos Apache Tribe
Tohono O'odham Nation
Tonto Apache Tribe
White Mountain Apache Tribe
Yavapai Apache Tribe
Yavapai Prescott Tribe

COCOPAH INDIAN TRIBE PROFILE

Tribal Office Address:

Cocopah Indian Tribe
P. O. Bin G
Somerton, AZ 85350
Name of Chairman:
Dale Phillips
Term Expiration: 1992
Phone Number: 627-2102 & 627-2061

Tribal Organization:

Authorization: Organized 1934
Tribal Constitution: Approved 1959
Number of Council Members: 3
Number of Council Members: 3
Term of Office: 2 years

Nation/Reservation Acreage:

Tribal Lands: 6,000 acres

Population:

Enrolled Members: 664
Non-Enrolled & Non-Indians: 117

Judiciary Address:

Cocopah Judicial Services
P. O. Bin G
Somerton, AZ 85350
Name of Chief Judge:
Hon. Herman Frauenfelder
Term Expiration: 1991
Phone Number: 627-2102 & 627-2061

Judicial Organization:

Authorization: Tribal Council
Resolution
Number of Court Personnel: 2
Term of Office (Chief Judge):
Annual Contract

Caseload (Fiscal Year)

Criminal	85
Civil	16
Delinquency	6
Traffic	8
Children's Civil	30
Appeals	0
	<hr/>
	145

Court Jurisdiction:

This includes enforcement of court orders and judgment debts, contracts, repossession of property, dissolution of marriage and enforcement of paternity and child support obligations against tribal members only. The tribal court also handles minor criminal and delinquency matters involving tribal members. The tribal court enforces violations for hunting, fishing and camping against both members and non-members. The court accepts transfer of jurisdiction from state courts of dependency cases and child support for tribal members.

Court Personnel:

Staff consists of the Tribal Judge and the Administrator of Judicial Services. The administrator also acts as the Court Clerk and Tribal Probation Officer. By resolution of Council, judicial services were to be made available to the Quechan Tribe located in Winterhaven, California when questions concerning California State laws are clear, concerning civil matters.

Facilities:

The Judicial Services facilities are located on the West Cocopah reservation in the Cocopah Tribal Building. The Tribal Court is located in the town of Somerton, Arizona, five (5) miles off the reservation. Cocopah Social Services is located in the same Tribal Building as the Judicial Service Office. The Tribal Police Department is located across the street from the Tribal office.

Cooperation with Other Jurisdictions:

At present, agreements exist with Yuma County Adult Detention Facility, Yuma County Juvenile Detention Center and Children's Village, a shelter facility for status offenders and children awaiting foster placement, all located in Yuma, Arizona twenty (20) miles from the West reservation. A process is followed by the Arizona State Prison and Yuma County courts for the extradition of felony fugitives from the Cocopah reservation.

Tribal Law and Court Procedures:

All law and court procedures follow the Cocopah Law & Order Code, the Cocopah Children's code and the Cocopah Motor Vehicle Code.

COLORADO RIVER INDIAN TRIBES PROFILE

Tribal Office Address:

Colorado River Indian Tribes
Route 1, Box 23-B
Parker, AZ 85344
Name of Chairman:
Daniel Eddy, Jr.
Term Expiration: 1994
Phone Number: 669-9211

Judiciary Address:

Colorado River Tribal Court
Box BH
Parker, AZ 85344
Name of Chief Judge:
Hon. Neil T. Flores
Term Expiration: 1992
Phone Number: 669-8367

Tribal Organization:

Authorization: IRA 1934
Tribal Constitution: 1975
Number of Council Members: 9
Term of Office: 4 years

Judicial Organization:

Tribal Court
Authorization: Tribal
Constitution, Article XII-
Judiciary
Number of Court Personnel: 10
Term of Office (Chief Judge): 2 years

Nation/Reservation Acreage:

Tribal	268,691.00
Allotted	5,957.90
Federal	.00

Caseload (Fiscal Year)

Criminal	513
Civil	75
Delinquency	285
Traffic	161
Children's Civil	14
Other	41
	<u>1,089</u>

Population:

Enrolled Members:	3,107
Non-Enrolled Indians:	2,411
Non-Indians	9,000

Court Jurisdiction:

The tribal court exercises jurisdiction over Indians in all legal matters, and over non-Indians in civil matters. There is a separate juvenile court.

Court Personnel:

The court staff consists of two judges, three clerks, a bailiff, a prosecutor, a probation officer and a public defender (employed part-time by tribal legal services).

Facilities:

The court facilities consist of a courtroom, a jury room, a clerk's office, chambers, and a law library. The tribe has a tribal jail and separate juvenile facilities.

Cooperation with Other Jurisdictions:

The tribal court has agreements concerning recognition of tribal court judgments with other tribes, but no such agreements exist with surrounding counties or the State of Arizona. However, the tribal court recognizes State court support orders, extradition requests and creditor claim judgments. The tribe has informal but effective agreements. The tribal police are certified as state officers, and are Special Deputy commissioned under the Bureau of Indian Affairs. Some jurisdictional problems have apparently been experienced concerning whether warrants and subpoenas will be effective off the reservation.

Tribal Law and Court Procedures:

The tribe has adopted the Federal Rules of Civil Procedure and criminal rules which are similar to the Federal Rules of Criminal Procedure generally.

FORT MOJAVE TRIBE PROFILE

Tribal Office Address:

Fort Mojave Tribe
500 Merriman Avenue
Needles, CA 92363
Name of Chairman: Nora Garcia
Term Expiration: 1993
Phone Number: (619) 326-4591

Tribal Organization:

Authorization: IRA
Tribal Constitution: Approved 1977
Number of Council Members: 7
Term of Office: 4 years

Nation/Reservation Acreage:

(Source: Tribe) (Year: 1990 Data)

Tribal Lands: 41,884 Acres
(AZ 23,669)
(CA 12,633)
(NV 5,582)

Population:

(Source: Tribe) (Year: 1990)

Enrolled Members: 870
Non-Enrolled: 74
Non-Indians: 59

Court Jurisdiction:

The court exercises general civil jurisdiction over both tribal members and non-members, criminal misdemeanor jurisdiction over Indians and enforcement authority over all violators of fish and game regulations.

Court Personnel:

The court staff consists of a chief judge, a court clerk and a court clerk/receptionist. The chief judge is also chief judge for the Havasupai Tribe. Otherwise, personnel is not shared with other tribes or other jurisdictions.

Facilities:

The chief judge and clerks have separate offices. The chief judge's office also serves as the courtroom. A law library consisting of Arizona Revised Statutes, the United States Code Annotated and various other publications is available. The court also uses the Truxton Canyon facility at Peach Springs, Arizona (BIA).

Cooperation with Other Jurisdictions:

Informal agreements with surrounding law enforcement and judicial services.

Tribal Law and Court Procedures: (Sources)

Tribal law consists of ordinances and customs, federal law and the laws of the states of Arizona, California, and Nevada where applicable.

Judiciary Address:

Fort Mojave Tribal Court
500 Merriman Avenue
Needles, CA 92363
Name of Chief Judge: Hon. Sheila G. McCord
Term Expiration: 1991
Phone Number: (619) 326-5293

Judicial Organization:

Authorization: Tribal Constitution
and Bylaws
Number of Court Personnel: 3
Term of Office (Chief Judge): 3 years

Caseload (Fiscal Year 1990)

Criminal	131
Civil	92
Delinquency	
Traffic	
Juvenile	50
Appeals	
Other	352
	625

GILA RIVER INDIAN COMMUNITY PROFILE

Tribal Office Address:

Gila River Indian Community
P. O. Box 97
Sacaton, AZ 85247
Name of Chairman:
Thomas R. White
Term Expiration: 1993
Phone Number: 562-3311

Tribal Organization:

Authorization: IRA 1936
Tribal Constitution
Number of Council Members: 17
Term of Office: 3 years

Judiciary Address:

Gila River Community Court
P. O. Box 368
Sacaton, AZ 85287
Name of Chief Judge:
Hon. Dallas Delowe
Term Expiration: 1993
Phone Number: 562-9276

Judicial Organization:

Tribal Court: Trial,
Appellate, Children's and
Adult Court
Authorization: Tribal Const.
Amended 1960
Number of Court Personnel: 18
Term of Office (Chief Judge): 3 yrs.

Caseload (Fiscal Year)

Criminal	394
Civil	560
Delinquency	267
Traffic	1,224
Children's Civil	<u>217</u>
	2,662

Court Jurisdiction:

The tribal court exercises general civil jurisdiction over both tribal members and non-members including enforcement of contracts, child support obligations, dissolution of on reservation marriages, and collection of judgment debts through garnishment. The court has criminal jurisdiction over all enrolled tribal members. The Children's Court has jurisdiction over all juvenile matters which arise from an event that occurs within the reservation. This may include non-members and non-Indians. Also, the Children's Court has jurisdiction over all matters which are properly transferred from other courts pursuant to the Indian Child Welfare Act and other dependency cases.

Court Personnel:

Court staff consists of a chief judge, two associate judges, a children's court judge, a court administrator, a court clerk supervisor and seven clerks, three children's court counselors and two bailiffs.

Facilities:

The Gila River Indian Community operates three court facilities.

1. East Judicial Center - located in Sacaton, Arizona, this center administers all adult court matters. This center also provides the largest courtroom which is utilized by both the Adult Court and Children's Court.
2. West End Judicial Center - located in Laveen, Arizona, this center provides services for both Adult and Children's Court and also provides a small courtroom.

3. Children's Court Offices - located in Sacaton, Arizona, this facility provides for the administration of juvenile court matters.

Cooperation with Other Jurisdictions:

The Gila River Tribal Court has a formal extradition process that is outlined in the Tribal Criminal Code, Chapter 12, section 2.1201(a), which allows for the recognition of other state or tribal court orders or warrants.

Tribal Law and Court Procedures:

The Gila River Indian Community Court and the Gila River Indian Community Children's court are required to adhere to the rules and laws contained in the Gila River Indian Community Code. This Code contains Title 1, Courts and Procedures, Title 2, Criminal Code, Title 3, Traffic Code, Title 4, Children's Code, and Title 5, Civil Code.

HOPI TRIBE PROFILE

Tribal Office Address:

Hopi Tribe
P. O. Box 123
Kykotsmovi, AZ 86039
Name of Chairman:
Vernon Masayesva
Term Expiration: 1993
Phone Number: (602) 734-2441

Tribal Organization:

Tribal Constitution
Number of Council Members: 18
Term of Office: Dependent on
Village

Nation/Reservation Acreage:

Tribal:	1,550,024
Allotted:	220
(only includes Moencopi area)	
Federal:	0

Population:

Enrolled Members:	7,100
(as of February 1991)	
Non-Enrolled Indians:	2,242
(pending approval)	
Non-Indians:	Unknown

Court Jurisdiction:

The Hopi Tribal Court exercises general criminal and civil jurisdiction (adult and juvenile), for tribal members and others within its jurisdictional boundaries, including residents of the Hopi Partitioned Lands. Court services include probation, investigations and legal representation for minors-in-need-of-care. The Hopi Children's Code provides for collection of child support through court-ordered wage withholding by reservation employers. Wage garnishment for other purposes is not clearly available under Hopi law.

Court Personnel:

The judiciary consists of one chief judge and two associate judges. The chief judge is a practicing attorney, graduate of Stanford University, BA 1951, and Stanford University Law School, JD 1954. The chief judge also serves as the judicial administrator.

The Appellate Court consists of three (3) judges who are graduates of an accredited school of law. The Chief Justice is a graduate of the Arizona School of Law, one associate justice is an Arizona Superior Court judge and another is a professor and former Dean of Law School at Arizona State University. It hears appeals from final judgments and other orders of the Hopi Tribal Courts.

Judicial support personnel include an administrative manager who plans, directs and supervises the administrative functions of the tribal judicial departments, two court clerks, one adult probation officer and one juvenile probation officer, two children's

Judiciary Address:

Hopi Tribal Court
P. O. Box 156
Keams Canyon, AZ 86034
Name of Chief Judge:
Hon. Robert Ames
Term Expiration: Permanent
Phone Number: (408) 424-0844

Judicial Organization:

Tribal Court: Trial,
Children's, Civil, and
Appellate
Number of Court Personnel: 17
Term of Office (Chief Judge):
Permanent

Caseload (FY 1990)

Criminal	3,495
Civil	232
Juvenile	144
Children's	*
Appeals	10
	<hr/>
	3,881

*(included with civil cases)

court counselors who investigate all child abuse and neglect complaints, a bailiff, and two juvenile intake officers who operate under a tribally approved juvenile detention policies and procedures manual.

Facilities:

The judiciary, administration, court clerks, children's court counselors and the bailiff are housed within the Hopi Tribal Court Building adjacent to the Hopi Police Department. There is one courtroom within the building where all court proceedings are held. The probation staff and juvenile intake are housed in a modular building immediately behind the Hopi Tribal Court Building. This building also houses a small law library. The detention facilities for both adults and juveniles are located within the Hopi Police Department.

Cooperation with Other Jurisdictions:

There is no agreement for recognition of judgments, extradition or provision of judicial or law enforcement services, although work on an agreement with the Navajo Tribe regarding children is currently underway. Foreign judgments may be filed by petition properly served and upon appropriate hearing or default become a judgment of the Hopi Tribal Court. Probation officers do supervise probationers for other jurisdictions as assigned.

Tribal Law and Court Procedures:

Hopi Tribal Ordinance 21 defines and establishes the Criminal Laws on the Hopi reservation. Ordinance 35 (Children's Code) establishes family, juvenile and children's law and procedure. The Hopi Courts have Rules of Civil and Criminal Procedure. Hopi Tribal Council Resolution 12-76 authorizes the court to recognize rights and precedents contained in: Hopi Constitution; Ordinance of Hopi Tribe; Resolution of Hopi Tribal Council; customs, traditions and culture of Hopi Tribe; laws, rules and regulations of the federal government; laws and rules and cases interpreting such laws and rules of the State of Arizona; and common law. The courts shall not recognize nor apply any federal, state or common law rule or procedure which is inconsistent with the spirit or letter of either the Hopi Constitution and Bylaws or any Hopi Ordinance or Resolution or custom, traditions or culture of the Hopi Tribe, unless otherwise required, in cases of federal law, and/or supremacy clause of the United States Constitution.

Limited Rules of Practice for attorneys are provided in the Hopi Ordinance 21.

KAIBAB-PAIUTE TRIBE PROFILE

Tribal Office Address:

Kaibab-Paiute Tribe
HC 65 Box 2
Fredonia, AZ 86022
Name of Chairman:
Gloria Bullets-Benson
Term Expiration: 1993
Phone Number: 643-7214

Tribal Organization:

Authorization: IRA
Tribal Constitution: Yes
Approved: 1951, Amended: 1965
Number of Council Members: 6
Term of Office: 1 to 3 years

Nation/Reservation Acreage:

Tribal Land: 120,413 acres

Population:

Total Enrolled Members:	(205)
Members on Reservation:	71
Non-Enrolled Members:	34
Non-Indians:	69
Total	174

Court Jurisdiction:

The tribal court exercises general civil jurisdiction over both tribal members and non-members. The jurisdiction over members includes enforcement of contracts entered on the reservation, paternity and child support, and repossession of property. The jurisdiction over non-members includes collection of debts, and enforcement of contracts and child support. The court also handles minor criminal and delinquency matters involving tribal members. The court enforces petty and traffic offenses and recreational violations of non-members. The court accepts transfers of jurisdiction from state courts on delinquency and child support enforcement cases for members and probation supervision cases of non-members.

Court Personnel and Facilities:

Presently the acting tribal judge is also the magistrate for the town of Fredonia. Court is held twice weekly. There is one secretary/clerk.

A court building with offices shared with Law Enforcement and Social Services. By agreement, the Kane County, Utah jail is used for tribal detention.

Cooperation with Other Jurisdictions:

Inter-governmental agreement with town of Fredonia for backup of tribal police officer on the reservation and coverage in his absence.

Tribal Law and Court Procedures:

Tribal Law and Order Code.

Judiciary Address:

Kaibab Paiute Tribal Court
HC 65 Box 328
Fredonia, AZ 86022
Name of Chief Judge:
Hon. Erma Sue Jensen
Phone Number: 643-7214

Judicial Organization:

Tribal Court: Trial
Authorization: Tribal Article XIII-
Judicial Branch of Government
Number of Court Personnel: 2

Caseload (Calendar Year 1990)

Criminal	10
Civil	9
Delinquency	0
Traffic	17
Children's Civil	15
Other	22
	57

NAVAJO NATION PROFILE

Tribal Office Address:

Navajo Nation
P. O. Box 308
Window Rock, AZ 86515
Name of President:
 Peterson Zah
Term Expiration: 1996
Phone Number: (602) 871-6355

Tribal Organization:

Authorization: BIA
Tribal Constitution: None
Number of Council Members: 89
Term of Office: 4 years

Nation: Reservation Acreage:
(Year: 1988)

Tribal Lands:	17,202,118
(Navajo Tribal Trust:	14,019,053)
(Navajo Tribal Fee:	1,603,054)
(Individual Navajo Allotmt	762,749)
(State	385,500)
(U.S. Forestry	178,078)
(Govt: EO, PLO, & SchTract	253,684)

Population:

(Source: Navajo Nation) (Year: 1988)

*136,698

*This is a preliminary figure; a new figure estimated to 150,000 plus will be available by mid-April, 1991.

Court Structure

The Navajo Nation Judiciary consists of District, Family and Supreme Courts. The District Courts are courts of general civil jurisdiction and limited criminal jurisdiction. The Family Courts hear all matters of domestic relations involving children, divorce proceedings and the probate of estates. The Supreme Court hears appeals from final court decisions and from certain final administrative orders. Trial de novo has been abolished at the appellate level. The Supreme Court hears only issues of law raised on the record.

Judiciary Address:

Navajo Nation Judicial Branch
P. O. Drawer 520
Window Rock, AZ 86515
Name of Chief Justice:
 Hon. Tom Tso
Phone Number: (602) 871-6762

Judicial Organization:

Tribal Courts: Trial and Appellate
Authorization: Council Resolution
Number of Court Personnel: 95
Term of Office (Chief Justice):
 Lifetime

Caseload (Fiscal Year 1990)

Criminal	39,872
Civil	1,028
Delinquency	658
Traffic	19,430
Children's Civil	438
Appeals (half a year	24
statistics)	
	<hr/>
	54,474

Court Jurisdiction

The Navajo Nation Council has established the jurisdiction of the Navajo Courts. The territorial jurisdiction of the Navajo Nation Courts is contained in 7 N.T.C. §254. The subject matter jurisdiction of the Navajo Nation Courts is found in 78 N.T.C. §253. It consists of any civil case involving a defendant who is a resident of Navajo Indian Country or who committed an act within Navajo Indian Country which gave rise to the lawsuit. The courts may also hear criminal cases for violation of the laws of the Navajo Nation. Criminal jurisdiction is limited by the offenses which may be litigated, the sentence which may be imposed, and the persons who may be subject to criminal prosecution in the tribal courts. The general personal jurisdiction of the Navajo Nation Courts is described in 7 N.T.C. § 253. This jurisdiction is invoked in civil cases by the filing and service of a proper complaint as required by the Rules of Civil Procedure adopted by the Navajo Nation Courts. Personal jurisdiction in criminal cases is limited to Indians by the United States Supreme Court in Oliphant v. Suquamish Indian Tribe.

Court Personnel

1	Chief Justice	1	Chief Probation Officer
2	Associate Justices	11	Probation Off. - Dist. Court
9	Judges - District Court	6	Probation Off. - Family Crt.
5	Judges - Family Court	1	Supreme Court Clerk
6	Traffic Hearing Officers	29	Court Clerks - Dist. Court
7	Court Solicitor and Staff Attys.	11	Court Clerks - Family Court
8	Court Administration	7	Microfilm Clerks
7	District Court Managers	7	Bailiffs
		<u>25</u>	Support Staff
	Total	143	

Judicial Performance and Training

The Chief Justice has ultimate responsibility for guiding the justices and judges and for administering discipline for misconduct that does not warrant removal. Because permanent judges are appointed basically for life and because they continue through various administrations, the Navajo Tribal Code provides that judges must serve a probationary period of two years. During this probationary period a judge is trained in the judicial skills and is observed to see whether he or she is qualified for permanent appointment. This is a protection to the Navajo people and to the judicial system.

The daily supervision and observation of probationary judges by the Chief Justice is extremely important. However, the duty of supervision and observation does not stop when a judge receives permanent appointment. The Navajo Nation must have assurance of continued competence and accountability of the judges. For this reason the Chief Justice supervises and corrects improper or inadequate judicial conduct. To assist him the Chief Justice has the advice and support of the Judiciary Committee.

The Chief Justice has developed a plan for a Judicial Conduct Commission. This Commission is independent of the tribal government. It reviews allegations of judicial misconduct and impropriety. The commission makes recommendations to the Chief Justice based upon review and investigation. The justices and judges in Judicial Conference have approved this plan for the Judicial Conduct Commission. The plan has also been approved by the Judiciary Committee.

Facilities

The Judicial Branch has court facilities in each of the seven judicial districts. In addition there are satellite facilities in Alamo and Canoncito, New Mexico. These communities receive circuit court type service. The Office of the Chief Justice and the Supreme Court have separate temporary facilities in Window Rock, Arizona. Efforts are made to maintain a law library in each of the seven judicial districts, but they are very basic. There are adult detention facilities in each of the judicial districts and two holding facilities for juveniles.

Cooperation with Other Jurisdictions

The Navajo Nation has many intergovernmental agreements with other governments.

Tribal Law and Court Procedure

Applicable Law

The statutory laws of the Navajo Nation are contained in the Navajo Tribal Code. The civil law applied by the Navajo Nation Courts is outlined in 7 N.T.C. §204. Applicable law of the United States is also applied in Navajo Courts. The traditional ways of the Navajo people are frequently argued on behalf of litigants by both Navajo and non-Navajo practitioners. Interpretation of applicable law is found in Navajo cases. The opinions of the Navajo Nation Supreme court are bound and published as the Navajo Reporter. The Navajo customs and traditions and written decisions of the Navajo Nation Courts are known as the common law of the Navajo Nation.

Rules of Procedure for the Courts

Pursuant to 7 N.T.C. §101, the Navajo Nation Courts have rules of pleading, practice and procedure. These rules provide a guide for processing a case through the courts from filing to judgment, enforcement of the judgment, and appeal. The rules of procedure for the Navajo Courts include criminal, civil, probate, evidence, and appellate. The rules are being revised to provide procedure appropriate to the more complex cases being handled by the Navajo Courts. The Navajo rules are being written in simplified language so ordinary citizens will be able to comprehend them. These rules can be obtained from the Supreme Court of the Navajo Nation.

Practitioners

Only members of the Navajo Nation Bar Association may practice in the Navajo Nation Courts. A major membership requirement is passing the Navajo Nation bar examination which is given twice a year. An attorney who is not a member of the Association may associate with a member in order to enter an appearance in a particular case.

There are approximately 300 members of the Association. They consist of both attorneys (law school graduates) and advocates (non-law school graduates who have received advocate training or served an apprenticeship). The Association has various committees, one being a grievance committee which hears complaints against practitioners and takes disciplinary action when necessary.

PASCUA YAQUI TRIBE PROFILE

Tribal Office Address:

Pascua Yaqui Tribe
7474 S. Camino de Oeste
Tucson, AZ 85746
Name of Chairman:
Arcadio Castelum
Term Expiration: 1992
Phone Number: 883-2838

Tribal Organization:

Authorization: IRA
Tribal Constitution: Approved 1988
Number of Number of Council Members: 11
Term of Office: 4 years

Nation/Reservation Acreage:

(Source: Tribe) (Year: 1990 Data)

Tribal Lands: 896 Acres

Population:

(Source: Tribe) (Year: 1990)

Enrolled Members: 6,826

Judiciary Address:

Pascua Yaqui Tribal Court
7474 S. Camino de Oeste
Tucson, AZ 85746
Name of Chief Judge:
Hon. Lawrence Numkena
Term Expiration: 1992
Phone Number: 578-2853

Judicial Organization:

Tribal Court: Trial and Appellate
Authorization: Tribal
Constitution Section
Number of Court Personnel: 11
Term of Office (Chief Judge): 3 years

Caseload (Fiscal Year 1990)

Criminal	321
Civil	89
Delinquency	38
Traffic	65
Children's Civil	7
Appeals	<u>1</u>
	521

Court Jurisdiction:

The tribal court exercises general civil jurisdiction over both tribal members and non-members including enforcement of court orders and judgments, contracts and paternity and child support obligations, collection of judgment debts through garnishment and repossession and dissolution of marriage. The court also handles minor criminal and delinquency matters involving tribal members. The court accepts transfer of jurisdiction from state courts of dependency cases under the Indian Child Welfare Act, probation supervision and child support enforcement cases.

Court Personnel:

The court staff consists of a chief judge, an associate judge and three appellate judges; a court administrator, two prosecutors, a probation officer and two court clerks.

Facilities:

Court Building. Detention facility located in Sacaton, AZ.

Cooperation with Other Jurisdictions:

Agreement with Pima County for supervision of probationers.

Tribal Law and Court Procedures: (Sources)

Tribal constitution, law and order code (includes civil), juvenile code, appellate procedure.

SAN CARLOS APACHE TRIBE PROFILE

Tribal Office Address:

San Carlos Apache Tribe
P. O. Box 0
San Carlos, AZ 85550
Name of Chairman: Buck Kitcheyan
Term Expiration: 1994
Phone Number: 475-2361

Tribal Organization:

Authorization: IRA 1934
Tribal Constitution and
Bylaws, Article V, Section 1a
Term of Office: 4 years

Nation/Reservation Acreage:

Tribal 1,853,841 acres

Population

Tribal Census Report (1990)
Tribal Members (total): 10,201
On Reservation Members: 7,000
Off Reservation Members: 3,000
Non-Members on Reservation: 721

Court Jurisdiction:

The tribal court exercises general civil jurisdiction over both tribal members and Indian non-members including enforcement of court orders and judgments, contracts, paternity and child support obligations, collections of judgment debts through garnishment and repossession and dissolution of marriage. The court enforces on-reservation contracts, debts and hunting, camping and fishing regulations against non-Indians. The tribe's Constitution and Bylaws and Law and Order Code provide for the court to have jurisdiction over all criminal misdemeanor offenses when committed by local members, non-tribal members or by any other persons. The court has jurisdiction over any persons, as well as non-Indians as long as they are cited in the court under forfeiture procedures. The court accepts transfers of jurisdiction from state courts of dependency and delinquency cases.

Court Personnel:

The court staff includes: one adult court judge who presides on all domestic cases, traffic cases and criminal cases; one juvenile judge who presides over juvenile delinquency cases, adoptions, and custody cases; five court clerks, three probation officers, one bailiff who also serves summons and subpoenas, and one prosecutor.

Facilities:

The tribal court is located within the law enforcement compound in San Carlos, Arizona. The juvenile court has a separate facility. The court has no juvenile detention facility or law library. Tribal court is located about five miles north of Highway 70/170 Junction.

Judiciary Address:

San Carlos Apache Tribal Court
P. O. Box 6
San Carlos, AZ 85550
Name of Chief Judge:
Hon. Marston Zaye
Term Expiration: 1994

Judicial Organization:

Tribal Court: Trial and
Appellate Court
Authorization: Tribal
Constitution and Bylaws,
Article V, Section 1
Number of Court Personnel: 14
Term of Office (Judges): 4 yrs.

Caseload (Fiscal Year)

Criminal	1,415
Civil	151
Delinquency	511
Traffic	0
Children's Civil	0
Appeals	15
	<u>2,092</u>

Cooperation with Other Jurisdictions:

The court has no agreement with other courts regarding recognition of judgments and no extradition procedures or ordinances. The Tribal Police Department provides all law enforcement services.

Tribal Law and Court Procedures:

The Tribal Council recently adopted civil and criminal procedures from the Rules of Federal Procedure. The tribe is forming a Tribal Bar Association to govern practice before tribal court.

TOHONO O'ODHAM NATION PROFILE

Tribal Office Address:

Tohono O'odham Nation
P. O. Box 837
Sells, AZ 85634
Name of Chairman:
 Angelo J. Joaquin, Sr.
Term Expiration: 1991

Judiciary Address:

Tohono O'odham Judiciary
P. O. Box 761
Sells, AZ 85634
Name of Chief Judge:
 Hon. Ned Norris, Jr.
Term Expiration: 1993
Phone Number: 383-3193/3194

Tribal Organization:

Authorization: IRA 1934
Tribal Constitution: Adopted 1986
Number of Council Members: 22
Term of Office: 4 years

Judicial Organization:

Tribal Court, Children's
Court, Appellate Court
Authorization: Tribal
Constitution Article VIII,
Judicial Branch
Number of Court Personnel: 40
Term of Office (Chief Judge): 2 yrs.

Nation/Reservation Acreage:

Tribal 2,846,372

Caseload (Fiscal Year)

Population:

Source: Arizona Commission of
 Indian Affairs, 1989

Enrolled Members: 17,704

Criminal	1,980
Civil	132
Delinquency	483
Traffic	998
Children's Civil	114
Other	<u>0</u>
	3,707

Court Jurisdiction:

The tribal court exercises general civil jurisdiction over tribal members, members of other tribes and non-Indians, including enforcement of court orders and judgments, contracts and paternity and child support obligations and collection of judgment debts through garnishment and repossession and dissolution of marriage. The court also handles minor criminal and delinquency matters involving tribal members and enforces offenses committed by non-members in hunting, fishing and camping violations. The court accepts transfer of jurisdiction from state courts of dependency, delinquency and child support cases for both members and non-members and probation supervision of members.

Court Personnel:

The court staff consists of six adult court judges and one children's court judge, a court administrator and assistant, a court process server, a court officer, court clerks, a rehabilitation counselor, probation officers, a community service supervisor, a juvenile detention supervisor and an officer, intervention resource officers and secretarial support staff.

The location of these personnel is within the judiciary facilities located in Sells, Arizona.

Facilities:

The judiciary is located in Sells, Arizona. Facilities include a court building with a Juvenile Detention Center and adjacent offices. The judiciary subscribes to: Supreme Court Reporter; Arizona Reports; Arizona Appeals Reports; Arizona Revised Statutes; Arizona Digest; United States Code Annotated; and a variety of other legal materials. These subscriptions are maintained on a periodic basis.

Cooperation with Other Jurisdictions:

There are no formal written agreements with neighboring jurisdictions, however informal contact is maintained between judges, probation officers and other court personnel with these jurisdictions in the interest of mutual concerns.

Tribal Law and Court Procedures:

By Administrative Order of the Chief judge for this Nation, the Tohono O'odham Judiciary has formally adopted the Arizona Rules of Court as they are applicable to the case.

TONTO APACHE TRIBE PROFILE

Tribal Office Address:

Tonto Apache Tribe
Tonto Apache Reservation #30
Payson, AZ 85541
Name of Chairman: Louis C. Lopez
Term Expiration: 1992
Phone Number: 474-5000

Tribal Organization:

Authorization: IRA 1972
Tribal & Constitution: Yes
Number of Council Members: 5
Term of Office: 2 and 4 years

Nation/Reservation Acreage:

(Source: Tribe) (Year: 1990)

Federal Lands: 85 acres

Population:

(Source: Tribe)

Enrolled Members: 85
Non-Enrolled Members: 27
Non-Indians: 11

Judiciary Address:

Tonto Apache Tribal Court
Tonto Apache Reservation #30
Payson, AZ 85541
Name of Chief Judge: Hon. Dora Dawes
Term Expiration: 1995
Phone Number: 474-5000

Judicial Organization:

Tribal Courts: Criminal, Civil and
Appellate
Authorization: Tribal Code
Number of Court Personnel: 3
Term of Office (Chief Judge): 4 years

Caseload: (Fiscal Year 1990)

Criminal	7
Civil	23
Delinquency	2
Traffic	0
Children's Civil	12
Appeals	
Other	<u>3</u>
	47

Court Jurisdiction:

The tribal court exercises general civil jurisdiction over both tribal members and non-members including enforcement of court orders and judgments, contracts, paternity and child support obligations, and collection of judgment debts through garnishment and repossession. The court handles minor criminal matters involving both members and non-members. The court accepts transfer of jurisdiction from state courts of delinquency cases, dependency cases, probation supervision and child support enforcement cases. This jurisdiction is described within the Tonto Apache Tribal Code.

Court Personnel:

The court staff includes one judge, one clerk and one Indian Child Welfare specialist. The court personnel handle general court functions and all court business is conducted at the Tonto Apache Tribal Court. There are no arrangements to share court personnel with other tribes or other jurisdictions.

Facilities:

The judicial facility is very limited. The county's detention facilities are used by the tribe when the need arises.

Cooperation with Other Jurisdictions:

The tribe has a subcontract with the county to provide law enforcement services on the reservation.

Tribal Law and Court Procedures:

Court procedures are as outlined in the tribal code.

WHITE MOUNTAIN APACHE TRIBE PROFILE

Tribal Office Address:

White Mountain Apache Tribe
P. O. Box 700
Whiteriver, AZ 85941
Name of Chairman: Ronnie Lupe
Term Expiration: 1994
Phone Number: 338-4782

Tribal Organization:

Authorization: IRA
Tribal Constitution: Approved 1938
Amended 1958
Number of Council Members: 11
Term of Office: 4 years

Nation/Reservation Acreage:

Tribal 1.6 million acres

Population:

Enrolled Members: 10,000
Non-Enrolled Members: 3,000

Court Jurisdiction:

The White Mountain Apache Tribal Court exercises general civil jurisdiction over both tribal members and non-members pursuant to its Judicial Code. The civil jurisdiction includes enforcement of court orders and judgments, contracts, paternity and child support obligations, and collection of judgment debts through garnishment and repossession and dissolution of marriage. The court also handles minor criminal and delinquency matters involving both tribal and non-tribal members. Transfer of jurisdiction between state and tribal courts occurs in Indian Child Welfare Act cases and other cases where it is found by the courts that the Tribal Court has subject matter and personal jurisdiction. The court has recognized and enforced court orders from other jurisdictions.

Court Personnel and Facilities:

The court staff includes one chief judge; one associate judge; one children's court judge; one civil clerk; one criminal clerk; one children's court clerk; one traffic clerk; one civil officer; two adult probation officers and one bailiff.

Court facilities consist of two court buildings located in Whiteriver, Arizona. One building houses the juvenile court, and the other the trial court. Neither court has a law library. The Whiteriver Police Department handles all detentions.

Cooperation with Other Jurisdictions:

The tribal court will accept a certified copy of the judgment order filed along with a motion requesting recognition and enforcement of a foreign judgment.

Tribal Law and Court Procedures:

Law and Order Code which includes civil, criminal, appellate and juvenile procedures.

Judiciary Address:

White Mountain Apache Tribal Court
P. O. Box 598
Whiteriver, AZ 85941
Name of Chief Judge: Hon. Kay A. Lewis
Term Expiration: 1994
Phone Number: 338-4390

Judicial Organization:

Court Types: Trial and Court
of Appeals, Juvenile Court
Authorization: White Mountain
Apache Judicial Code
Number of Court Personnel: 8
Term of Office (Chief Judge): 4 yrs.

Caseload (Fiscal Year)

Criminal	2,500
Civil	700
Delinquency	0
Traffic	1,259
Children's Civil	0
Appeals	<u>10</u>
	4,469

YAVAPAI APACHE TRIBE PROFILE

Tribal Office Address:

Yavapai Apache Tribe
P. O. Box 1188
Camp Verde, AZ 86322
Name of Chairman:
 Ted Smith
Term Expiration: 1992
Phone Number: 567-3649

Tribal Organization:

Tribal Constitution: Approved, 1937
Number of Council Members: 8
Term of Office: 2 years

Population:

Enrolled Members:	1,020
Non-Enrolled Members:	30
Non-Enrolled Indians:	20

Judiciary Address:

Yavapai Apache Tribal Court
824 N. Main Street
Cottonwood, AZ 86326
Name of Chief Judge:
 Hon. Charles M. Graham
Phone Number: 634-9770

Judicial Organization

Tribal Court: Trial
Authorization: Tribal Council
 Resolution
Number of Court Personnel: 3

Caseload (89-90)

Criminal	143
Civil	4
Traffic	6
Children's Civil	8
	<u>163</u>

Court Jurisdiction:

The tribal court exercises general civil jurisdiction over tribal members including enforcement of court orders, judgments, contracts, paternity and child support obligations, collection of judgment debts through garnishment and repossession and dissolution of marriage. The court exercises civil jurisdiction over non-members in enforcing contracts entered on the reservation. The court handles criminal misdemeanor matters involving tribal members and enforces traffic offenses committed by non-members on the reservation. The court accepts transfer of jurisdiction from state courts of dependency cases involving tribal members.

Court Personnel:

The tribal court staff consist of one chief judge, one associate judge and one court clerk. All positions are part time.

Facilities:

The tribal court shares facilities with the Cottonwood Municipal Court.

Tribal Law and Court Procedures:

Yavapai Apache Tribal Code

YAVAPAI PRESCOTT TRIBE PROFILE

Tribal Office Address:

Yavapai Prescott Tribe
530 E. Merrit
Prescott, AZ 86301
Name of Chairman:
Pat McGee
Term Expiration: 1992
Phone Number: 445-8790

Tribal Organization:

Authorization: Non-IRA
Tribal Constitution: Articles
of Association
Approved: 1958
Number of Council Members: 5
Term of Office: 2 years

Nation/Reservation Acreage:

Tribal Land: 1,395 acres

Population:

Enrolled Members: 122
Non-Enrolled Members: 23
Non-Indians: 42

Court Jurisdiction:

The tribal court exercises general and civil jurisdiction over tribal members, which includes enforcement of court orders, contracts entered into on the reservation, paternity and child support obligations, repossession of property and dissolution of marriages of tribal members. The court also handles minor criminal and delinquency matters involving tribal members and minor criminal matters involving non-members. The court exercises jurisdiction over both members and non-members who commit petty offenses, traffic offenses, hunting, fishing and camping violations. No transfers of jurisdiction currently exist, but intergovernmental law enforcement agreements exist.

Court Personnel:

The tribe employs one part-time judge and one clerk.

Facilities:

Court facilities are leased from Yavapai County and are located in the County Courthouse in close proximity to a law library. Detention facilities are local and only for temporary use, long-term detention facilities are in Peach Springs.

Cooperation with Other Jurisdictions:

Yavapai County judges contract with the tribe. The county allows use of the court facilities for tribal court matters.

Tribal Law and Court Procedures:

The tribe relies on the tribal code which provides reference to state statutes where the code is silent.

Judiciary Address:

Prescott Yavapai Tribal Court
Yavapai County Courthouse
Prescott, AZ 86301
Name of Chief Judge:
Hon. Robert Kuebler, Jr.
Phone Number: 771-3300

Judicial Organization:

Tribal Court: Trial
Authorization: Tribal Council
Resolution
Number of Court Personnel: 2
Term of Office (Chief Judge):
Indefinite

Caseload (Calendar Year 1990)

Criminal	2
Civil	2
Delinquency	0
Traffic	0
Children's Civil	0
	4

STATE AND TRIBAL COURT INTERACTION: BUILDING COOPERATION AN ARIZONA PERSPECTIVE

C. Compendium and Sample Intergovernmental Agreements

Present statutory authority for public agencies within the State of Arizona to enter into intergovernmental agreements (IGA's) can be found in A.R.S. §§11-951 et seq. Public agencies include the state, county, and city governments and specifically the courts. The statute also specifically allows Arizona public agencies to enter into IGA's with Indian tribes/nations.

While this statute appears to be over twenty (20) years old, significantly there appears to be but a single reported judicial decision which cites this statute (Lake Havasu City v. Mohave County, 139 Ariz. 552, 675 P.2d 1371 [App. 1983]) The statute has been the subject of numerous opinions of the Arizona Attorney General.

The most significant Attorney General Opinion is I84-135 of October 1, 1984 which emphasizes the point made in A.R.S. §11-954--that the statute grants no new powers to any contracting party, only the authority to enter into the IGA, assuming that all conditions of A.R.S. §11-952 are met.

A.R.S. §11-952 in turn requires that each IGA set forth:

- a. duration
- b. purpose or purposes
- c. manner of financing the joint or cooperative undertaking
- d. how the budget will be established and maintained
- e. how the agreement will be terminated
- f. how property will be disposed of upon termination
- g. approval by the contracting parties
- h. approval by the AG or other appropriate counsel of each body

It is important to note that the statute requires not only that the state governmental parties have the power to perform what the IGA provides but also that the tribe/nation (or tribes/nations) have the power to perform their

STATE AND TRIBAL COURT INTERACTION: BUILDING COOPERATION AN ARIZONA PERSPECTIVE

obligations under the IGA separate and apart from the IGA. We have not determined the legal authority of Indian tribes/nations to enter into IGA's with the state and/or other tribes/nations.

The Arizona Department of Economic Security has far outpaced other state agencies in establishing cooperative agreements with Indian tribes/nations. The experience of this agency is testimony to the practicality of using intergovernmental agreements to enhance cooperation between the state and tribes/nations and may be a useful model for other states in which cooperation in the provision of social services is desired. A compendium of intergovernmental agreements between Arizona Indian tribes/nations and the Department of Economic Security (DES) is attached.

The following IGA's are also attached as examples of cooperative arrangements between the Arizona's political subdivisions and Arizona Indian tribes/nations;

1. Between the Navajo Nation and the Coconino County Juvenile Court for courtesy supervision of probationers.
2. Between the Colorado Indian Tribes and the Town of Parker establishing a procedure for mutual resolution of issues.
3. Between the Colorado River Indian Tribes and La Paz County for mutual assistance in law enforcement.

COMPENDIUM OF INTERGOVERNMENTAL AGREEMENTS
BETWEEN
THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY
AND
ARIZONA INDIAN TRIBES/NATIONS

JOB TRAINING

Each Indian tribe indicated below has two separate contracts with the Arizona DES - Division of Employment & Rehabilitation Services - Job Training Partnership Act Administration (JTPA). The two types of contracts are referred to as Title II-A Adult and Youth Programs contracts and Title II-B Summer Youth Employment and Training Programs (SYETP).

The contract period for each of the Title II-A contracts run from 7/1/90 - 6/30/91; the contract period for each of the Title II-B contracts run from 1/1/90 - 12/31/90.

Title II-A Adult and Youth Programs:

The following services are provided through the Title II-A Adult and Youth Programs contracts:

Assessment - Program enrollment and eligibility determination.
Assessment of job skills and/or vocational training.

Basic Education - Provides reading, writing and math and other related learning skills in preparation for employment.

Employment Services - Provides outreach, intake, eligibility, placement and follow-up activities in support of employment related training.

Exemplary Youth Work Program - Provides an array of activities and services to youth 14, 15 and 16 to 21 years of age.

Financial Assistance - Assistance which covers most supportive services as necessary for JTPA participants.

Limited Work Experience - Provides youth and adults with an on site and classroom training experience for employment for up to six months.

Occupational/Vocational Training - Provides skills training in a classroom setting.

On-The-Job Training - Provides jobs placement with private and public employers by contractual agreements.

Support Services - Provides essential services to participants, to enable them to participate in a training program.

Work Experience - Provides youth and adults with an on site work experience, work habits, and skills development.

Title II-B Summer Youth Employment & Training Program:

The II-B contracts provide a summer program which includes work experience and Basic Education classes to those in need. Because the services in this category do not vary they will not be itemized as are the services provided through II-A.

Listing of Tribes who have II-A & II-B contracts:

The following Indian Tribes have intergovernmental agreements with the Department of Economic Security (DES).

Tribe:	Contracted Services	Award
Colorado River	Title II-A: Basic Education Exemplary Youth Work Pro. Occupational/Voc. Educ. On the Job Training Work Experience	\$ 46,545.
	Title II-B Summer Youth Employ. & Training	\$ 24,428.
Gila River	Title II-A: Basic Education Exemplary Youth Program Occupational/Voc. Educ. On the Job Training Work Experience	\$ 247,185.
	Title II-B	\$ 124,957.
Hopi	Title II-A: Basic Education Exemplary Youth Program Financial Assistance Occupational/Voc. Ed. On the Job Training Limited Work Experience Work Experience	\$ 190,968.
	Title II-B	\$ 127,186.

Hualapai	Title II-A: Basic Education Support Services Work Experience	\$ 22,341.
	Title II-B	\$ 19,476.
Navajo	Title II-A: Assessment Basic Education Exemplary Youth Program On the Job Training Limited Work Experience	\$1,134,704.
	Title II-B	\$ 677,784.
Pascua Yaqui	Title II-A: Employment Services Occupational/Voc. Educ. On the Job Training Work Experience	\$ 41,622.
	Title II-B	\$ 20,147.
Salt River Pima- Maricopa	Title II-A Assessment Basic Education Exemplary Youth Program Financial Assistance Occupational/Voc. Train. On the Job Training	\$ 85,644.
	Title II-B	\$ 52,187.
San Carlos Apache	Title II-A Employment Services Limited Work Experience Occupational/Voc. Educ. Work Experience	\$ 145,886.
	Title II-B	\$ 91,087.
Tohono O'Odham	Title II-A Assessment Basic Education Financial Assistance Limited Work Experience Occupational/Voc. Educ. On the Job Training	\$ 327,847.

	Title II-B Summer Youth Employ. & Training	\$ 197,201.
White Mountain Apache	Title II-A Basic Education Exemplary Youth Programs Employment Services Limited Work Experience Occupational/Voc. Ed. On the Job Training Work Experience	\$ 173,691.
	Title II-B	\$ 126,043.

DISLOCATED WORKERS

An intergovernmental agreement between the Havasupai Tribe and the DES/JTPA Title III, State of Arizona Dislocated Worker Administration was entered into to provide disaster relief shortly after the Havasupai Village was flooded.

Disaster Relief - Includes first aide training, orientation to trail and equipment safety and erosion control.

Tribe	Contracted Service	Award
Havasupai	Disaster Relief	\$ 500,000.

FAMILY ASSISTANCE

An intergovernmental agreement between the DES and the White Mountain Apache Tribe concerned the issuance of food stamps. The contract period in this area ran from 7/1/90 - 6/30/91.

Food Stamp Issuance - The tribe(s) provide a central mailing point to receive Food Stamp Coupons. The tribe distributes envelopes containing coupons for eligible participants.

Tribe	Contracted Service	Award
White Mountain Apache	Food Stamp Issuance	\$ 21,191.

COMMUNITY SERVICES

An intergovernmental agreement between the DES and the Navajo Nation concerned the purchase of building materials for veteran's housing. The contract period ran from 12/14/88 - 6/30/90.

Building Materials Purchase - Enabled the Navajo Nation to purchase building materials for single family residences to be owned and occupied by veterans, on land that is owned or leased by them.

Tribe	Contracted Service	Award
Navajo	Building Materials Purchase	\$ 900,000.

AGING & ADULT SERVICES

The following services are provided through the intergovernmental agreements between the DES and the tribes/nations indicated below in the Area of Aging and Adult Administration (AAA). Each of the contract periods in this area run from 7/1/90 - 6/30/91.

Advocacy is provided for the elderly and handicapped tribal members to assure that those entitled receive Social Security benefits, commodity foods, food stamps, low income energy assistance and other local services.

Congregate Meals are provided for the elderly and handicapped individuals to ensure that they get one third of the necessary recommended daily allowance in one meal.

Counseling services will be provided to individuals and families. The counseling services will be in areas of family problems; actual/potential abuse; neglect or exploitation (physical/mental).

Home Delivered Meals are provided for all home bound elderly to ensure that they get one third of the necessary recommended daily allowance in one meal.

Housekeeping services are provided for the elderly and handicapped individuals who may be unable to function fully to perform housekeeping chores on their own. Services may also include minor home repair, heavy yard work and painting.

Transportation for the elderly and handicapped individuals are provided on the days meals are provided. Transportation is also provided to other functions according to the particular agreement.

Tribe	Contracted Service	Award
Ak-Chin	Transportation	\$ 20,732.
Cocopah	Counseling	\$ 22,563.
Colorado River	Housekeeping	\$ 34,554.
Fort McDowell	Congregate Meal Service Transportation	\$ 21,527.
Fort Mohave	Congregate Meal Service Home Delivered Meals	\$ 25,395.
Gila River	Congregate Meal Service	\$ 127,169.
Hopi	Counseling	\$ 128,030.
Havasupai	Congregate Meal Service Housekeeping	\$ 21,786.
Hualapai	Congregate Meal Service Home Delivered Meals	\$ 33,599.
Kaibab-Paiute	Congregate Meal Service Housekeeping	\$ 18,193.
Navajo	Information not available	\$1,008,846.
Pascua Yaqui	Counseling	\$ 33,907.
Quechan	Counseling	\$ 31,595.
San Carlos Apache	Congregate Meal Service Home Delivered Meals Transportation	\$ 122,604.
Salt River Pima- Maricopa	Congregate Meal Service Home Delivered Meals	\$ 40,707.
Tonto-Apache	Home Delivered Meals Housekeeping	\$ 17,485.
White Mountain Apache	Advocacy Home Delivered Meals Housekeeping	\$ 153,034.
Yavapai Apache	Congregate Meal Service	\$ 28,331.

CHILDREN, YOUTH & FAMILY SERVICES

The following services are provided through the intergovernmental agreements between the DES and the tribes/nations indicated below in the area of Administration for Children, Youth & Families (ACYF). Each of the contract periods in this area run from 7/1/90 -6/30/91.

Child Protective Services - These IGA's are entered into to facilitate the implementation of the Indian Child Welfare Act (I.C.W.A.), 25 U.S.C. sec.'s 1901-1963. The primary purpose of the I.C.W.A. is to protect and further the best interests of Indian children. The contracting parties cooperate, share resources and expertise in addressing the needs of children and promote cooperation among agencies dedicated to the welfare of children. Through the I.C.W.A. the Indian tribe(s) have exclusive jurisdiction of any child custody proceeding involving an Indian child residing or domiciled within the reservation.

These IGA's may contain the following cooperative services agreed to be provided related to state, federal and tribal courts:

to assist state and tribal juvenile courts with the disposition of cases;

to serve as resources to said courts in the identification and verification of tribal affiliation;

to assist one another in the identification of expert witnesses upon whom the courts of each jurisdiction may call;

to give full faith and credit to the judicial proceedings of the tribal court applicable to child custody proceedings;

to determine whether the Indian child is the subject of a dependency proceeding in the respective Tribal Children's Court;

if the child is found to be a ward of the tribe's Children's Court or otherwise subject to the tribe's exclusive jurisdiction, the state and tribe work together to transfer the custody of the child to the tribe;

the state and tribe may coordinate and consult to negotiate a voluntary agreement with the parent, legal guardian, or Indian custodian for foster care placement of the child;

the tribe retains jurisdiction over cases where courtesy supervision is agreed to by the state;

the state and tribe coordinate efforts in locating and licensing the most suitable foster care and pre-adoptive placements for the Indian children. The state and tribe coordinate efforts in locating suitable adoptive families for the Indian children.

Counseling Services are provided to offer individual, family and marital counseling and family services to families who are involved with the tribal courts, alcoholism, child abuse and neglect, child custody, emotional impairment and various other problems contributing to family instability.

Day Care services for children 6 mo. -3 1/2 years of age. The programs typically operate three classrooms for infants, toddlers and three year old children.

Foster Care services are provided in the form of monetary assistance needed to secure homes for foster care for children who otherwise may not be adopted.

Parenting Skills Training instruct parents in stages of child development, including physical as well as emotional stages and factors influencing such development.

Social Development to provide culturally relevant group activities and experiences for the purpose of developing and acquiring skills and knowledge that enhance sound personality development for children and teens.

Tribe	Contracted Service		Award
Fort McDowell	Parenting Skills Training	\$	40,000.
Gila River	Counseling Services	\$	40,000.
	Child Protective Services	\$	24,380.
	*Foster Care	\$	1,250.
	*Amended to end 12/30/90		
Hopi	Social Development	\$	40,000.
Hualapai	Social Development	\$	30,000.
Navajo	Child Protective Services	\$	
Pascua Yaqui	Social Development	\$	40,000.
Quechan	Parenting Skills Training	\$	25,000.

Tohono O'Odham	Parenting Skills Training	\$	30,000.
	Day Care	\$	160,996.
White Mountain Apache	Counseling Services	\$	29,987.
Yavapai-Prescott	Parenting Skills Training	\$	20,000.
	Social Development	\$	17,882.
Salt River	Parenting Skills Training	\$	35,000.

CHILD CARE SERVICES

The following contracts are specifically provided to operate Child Day Care Services to the following tribes. The tribes enter into "Child Day Services Financial Agreements" with the Department of Economic Security (DES). Then DES makes payments for child care to the tribes. The DES uses the same financial agreements for public entities as are used with private providers. The contract period with the Navajo Tribe goes from 6/30/89 - 6/30/92. The contract period with the Tohono O'Odham goes from 7/1/89 - 6/30/92.

Tribe	Contracted Service	Award
Navajo	Day Care Services (1) at Chinle, AZ (1) at Fort Defiance, AZ	*Please see explanation above
Tohono O'Odham	Day Care Service (3) at Sells, AZ (1) at Casa Grande, AZ	*Please see explanation above

LONG TERM CARE SERVICE

The Hopi Tribe has an intergovernmental agreement with the Arizona Department of Economic Security (DES) - Division of Development Disabilities (DDD) provides habilitation services which include personal living skills training, rehabilitation instruction, day care services for the developmentally disabled and personal care. The contract runs from 2/1/90 - 9/30/90.

Tribe	Service Contracted	Award
Hopi	Habilitation	\$ 119,023.

COMPUTER OPERATIONS

This intergovernmental agreement between the DES and the Navajo Tribe was entered into to fulfill the need for the Navajo Nation Division of Public Safety (NDPS) to extend to DES unused NDPS microwave system capacity between Piney Hill and Window Rock, both on the Navajo Reservation. The contract period ran from 11/17/88 - 12/31/99.

Tribe	Contracted Service	Award
Navajo	Microwave System Service	\$ 27,767.

UTILITY ASSISTANCE

The following two intergovernmental agreements between DES and the two Indian tribes/nations indicated below were entered into to provide Utility Assistance. The contract period information was not available. Also it is not clear in which Division or Office of the DES these contracts administratively fall within.

Utility Assistance - Deals with problems related to the rising costs of heating and cooling for low income households and emergency safety repairs to utility related appliances or systems.

Tribe	Contracted Service	Award
Havasupai	Utility Assistance	\$ 4,000.
Tohono O'Odham	Utility Assistance	\$ 43,427.

MEMORANDUM OF UNDERSTANDING
FOR THE
COURTESY SUPERVISION OF
PROBATION

This Memorandum of Understanding is for the purpose of providing a basis for the courtesy supervision of probation of minors placed on probation by the Coconino County Juvenile Court who reside in the jurisdiction of the Navajo Nation Family Court and those who are placed on probation by the Navajo Nation Family Court and who reside in the jurisdiction of Coconino County Juvenile Court. The objective of this Memorandum is to provide basic guidelines to govern the placement of minors on courtesy supervision of probation as well as the services rendered to these minors while they are under supervision.

The Coconino County Juvenile Court agrees to:

1. Make application to the Navajo Nation Family Court for the courtesy supervision of a minor placed on probation by Coconino County Juvenile Court who resides in the jurisdiction of the Navajo Nation Family Court.
2. Provide the Navajo Nation Family Court with the relevant materials and documents upon which to decide the rejection or acceptance of the application.
3. Upon acceptance of the application, place the minor under the courtesy supervision of the Navajo Nation Family Court by Order of the Coconino County Juvenile Court.
4. Retain legal control and jurisdiction of the minor placed on courtesy supervision pursuant to this agreement.
5. Provide courtesy supervision of minors on probation to the Navajo Nation Family Court who reside in the jurisdiction of Coconino County Juvenile Court to include the following:
 - A. A minimum of one monthly contact in person with a Probation Officer.
 - B. A quarterly written report by the assigned Probation Officer which includes information that describes the number of contacts with the probationer during the quarter; the minor's progress in school if attending; the minor's progress in counseling if available; the minor's general adjustment and performance; and the minor's contact with any authorities.
 - C. Provide referral to any appropriate and available treatment services including, but not limited to, individual counseling; family counseling; psychological services; psychiatric services; parent education and other services available in the community where the minor resides.
 - D. Provide telephone notification to the Navajo Nation Family Court within twenty-four hours of any violation of the terms and conditions of probation; any new delinquent offenses; any major problems within the minor's family and family adjustment; and any inability to locate the minor. Telephone notification shall be followed immediately by written notification and documentation.
6. Enforce the terms and conditions of Probation imposed on the minor and inform the applicant Court if unable to do so.

The Navajo Nation Family Court agrees to:

1. Make application to the Coconino County Juvenile Court for the courtesy supervision of a minor placed on probation by the Navajo Nation Family Court who resides in the jurisdiction of the Coconino County Juvenile Court.
2. Provide the Coconino County Juvenile Court with the relevant materials and documents upon which to decide the rejection or acceptance of the application.
3. Upon acceptance of the application, place the minor under the courtesy supervision of the Coconino County Juvenile Court by Order of the Navajo Nation Family Court.
4. Retain legal control and jurisdiction of the minor placed on courtesy supervision pursuant to this agreement.
5. Provide courtesy supervision of minors on probation to the Coconino County Juvenile Court who reside in the jurisdiction of the Navajo Nation Family Court to include the following:
 - A. A minimum of one monthly contact in person with a Probation Officer.
 - B. A quarterly written report by the assigned Probation Officer which includes information that describes the number of contacts with the probationer during the quarter; the minor's progress in school if attending; the minor's progress in counseling if available; the minor's general adjustment and performance; and the minor's contact with any authorities.
 - C. Provide referral to any appropriate and available treatment services including, but not limited to, individual counseling; family counseling; psychological services; psychiatric services; parent education and other services available in the community where the minor resides.
 - D. Provide telephone notification to Coconino County Juvenile Court within twenty-four hours of any violation of the terms and conditions of probation; any new delinquent offenses; any major problems within the minor's family and family adjustment; and any inability to locate the minor. Telephone notification shall be followed immediately by written notification and documentation.
6. Enforce the terms and conditions of probation imposed on the minor and inform the applicant Court if unable to do so.

Memorandum of Understanding
Page 3

Above agreement entered into this
_____ day of August, 1990.

Above agreement entered into this
_____ day of August, 1990.

H. Jeffrey Coker, Judge
Presiding Juvenile Court Judge
Coconino County Juvenile Court

Manuel Watchman, Judge
Navajo Nation Family Court Judge
Tuba City District, Navajo Nation

Notary Public

Signed and subscribed before me this
_____ day of August, 1990.

Notary Public

Signed and subscribed before me this
_____ day of August, 1990.

My commission expires _____
_____.

My commission expires _____
_____.

Memorandum of Understanding
Page 4

Above agreement entered into this
_____ day of August, 1990.

Ray Gilmore, Judge
Navajo Nation Family Court Judge
Chinle District, Navajo Nation

Notary Public
Signed and subscribed before me this
_____ day of August, 1990.

My commission expires _____

Above agreement entered into this
_____ day of August, 1990.

Tom Tso, Chief Justice
Navajo Nation Supreme Court
Navajo Nation

Notary Public
Signed and subscribed before me this
_____ day of August, 1990.

My commission expires _____

MUTUAL ASSISTANCE AGREEMENT BETWEEN
THE COLORADO RIVER INDIAN TRIBES AND THE LA PAZ COUNTY

PREAMBLE

This Agreement dated Feb. 21, 1989 is between the Colorado River Indian Tribes ("Tribe") and La Paz County ("County").

The Tribe is authorized to enter agreements with state, local and federal governments pursuant to Article VI, Section 1(a), of the Tribe's constitution. The County is authorized by Chapter 7, A.R.S. § 11-952 to enter into agreements with other governmental units.

Intent

The Tribe and County each wish to ensure better law enforcement by providing for mutual use of law enforcement personnel and resources in the event of disaster, disorder or emergencies arising on or near the Colorado River Indian Reservation. The County and Tribe intend to make trained and experienced law enforcement officers readily available to each other and to provide increased protection for the public.

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

Section 1. Requesting Assistance

- A. The County Sheriff and the Tribe's Chief of Police or their designees, may request reasonable assistance from the other jurisdiction when reasonably necessary for efficient law enforcement within their jurisdiction. The County Sheriff and Tribe's Chief of Police shall exchange and update regularly a list of officers authorized to request assistance.

Section 2. Responding to Request for Assistance

Upon receiving a request for assistance, the County Sheriff or the Tribe's Chief of Police shall be authorized to furnish authorized personnel, equipment and facilities as he determines is appropriate and available.

Section 3. Implied Request

- A. In the event that a county or tribal law enforcement officer who is authorized to respond to requests for assistance observes any emergency or incident occurring during routine patrol, the officer may respond to the emergency or incident. In such circumstances it will be implied that the other jurisdiction is in need of assistance and that the law enforcement officer is authorized as a special deputy to provide immediate aid or services without further request for assistance, subject to any limitation contained in the operational plans adopted pursuant to Section 6.

- B. Any law enforcement officer exercising law enforcement powers or duties obtained as a result of this Section of the Agreement must give notice to the County Sheriff or Tribe's Chief of Police immediately and submit a written report within four (4) hours.

Section 4. Cross-Deputization

- A. Authorized law enforcement officers who respond to requests for assistance under this Agreement shall be acting as special deputies on behalf of the Tribe when providing services for the Tribe and as special deputies for the County when providing services for the County. Responding officers shall be automatically commissioned by virtue of this Agreement through the duration of the situation giving rise to the request.
- B. The Tribe and County shall annually compose a list of named law enforcement officers who are qualified to act as special deputies under the Agreement, along with a statement of their law enforcement qualifications and training. The list of tribal law enforcement officers shall be submitted to the County Sheriff and the list of county law enforcement officers shall be submitted to the Tribe's Chief of Police; they will accept the lists and thereby authorize those officers to serve as special deputies under this Agreement. The County Sheriff and Tribe's Chief of Police may, at his discretion, remove any officer from the lists submitted to them at any time and revoke that officer's authorization to respond to a request for assistance.

Section 5. Qualifications and Training

- A. All personnel furnished by the parties pursuant to this Agreement shall be full-time commissioned law enforcement officers, who have satisfied law enforcement officer qualification and training requirements of their own employers.
- B. Tribal law enforcement officers furnished pursuant to this Agreement shall be certified to act under Arizona law.
- C. County law enforcement officers furnished pursuant to this Agreement shall undergo training in tribal law enforcement which shall be provided by the Tribe.

Section 6. Operational Plan

- A. The mutual assistance to be rendered under this Agreement shall be available upon the development and approval by the County and Tribe of an operational plan. The plan shall outline the exact procedures to be followed when assistance is requested, including but not limited to the establishment of command posts, designation of the agency with primary responsibility, the assignment of missions, arresting policies, and provision for transportation and housing of prisoners. The parties who will develop the plan are:

Stuart Harper, Chief of Police
Colorado River Indian Tribes
Rt. 1, Box 23-B
Parker, Arizona 85344

Marvin Hare, Sheriff
La Paz County Sheriff's Office
P. O. Box BF
Parker, Arizona 85344

- B. An operational plan pertaining to law enforcement on the Reservation shall be developed by the Tribe's Chief of Police and the County Sheriff and submitted for approval by the County and the Tribe within ninety (90) days of adoption of this Agreement.

Section 7. Scope of Power

- A. County law enforcement officers responding to a request for assistance from the Tribe shall have all the powers of tribal law enforcement officers to enforce the Tribal Law and Order Code, including the power to make arrests.
- B. County law enforcement officers responding to a request for assistance under this Agreement shall comply with the applicable statutory provisions concerning enforcement of tribal laws. Tribal law enforcement officers responding to a request for assistance under this Agreement shall comply with the applicable statutory provisions concerning enforcement of state laws.

Section 8. Status of Officers

- A. In the event that the County supplies law enforcement officers to the Tribe, the county officers shall remain under the ultimate control of the County but shall take supervision and directions from the tribal official designated by the Tribe while in the Tribe's jurisdiction.
- B. In the event that the Tribe supplies law enforcement officers to the County, the tribal officers shall remain under the ultimate control of the Tribe but shall take supervision and directions from the county official designated by the County while in the County's jurisdiction.
- C. County law enforcement officers responding to a request for assistance under this Agreement are not employees of the Tribe. The County shall remain liable for its employees' salaries, worker's compensation protection and civil liabilities and each county officer shall be deemed to be performing regular duties for the County while performing services pursuant to the Agreement.
- D. Tribal law enforcement officers responding to a request for assistance under this Agreement are not employees of the County. The Tribe shall remain liable for its employees' salaries, worker's compensation protection and civil liabilities and each tribal officer shall be deemed to be performing regular duties for the Tribe while performing services pursuant to the Agreement.

Section 9. Immunities

- A. All the immunities from liability and exemptions from laws, ordinances and regulations which law enforcement officers employed by the County or Tribe have in their own jurisdictions shall be effective in the jurisdiction in which they are giving assistance unless otherwise prohibited by law.
- B. All the immunities enjoyed by tribal law enforcement officers under tribal law shall inure to the benefit of county law enforcement officers when acting as tribal law enforcement officers under terms of the Agreement.
- C. All the immunities enjoyed by county law enforcement officers under state or federal law shall inure to the benefit of tribal law enforcement officers when acting as county law enforcement officers under terms of the Agreement.

Section 10. Responsibility

- A. The County and Tribe shall be responsible for all liability of whatever nature arising from the acts of its own law enforcement officers and employees to. Under no circumstances shall either the County or Tribe be held liable for the acts of employees of the other party performed under color of this Agreement.

Section 11. Indemnification

- A. The County and Tribe shall indemnify each other for all claims, judgments, or liabilities by third parties for property damage, personal injury or civil liability which may arise out of the activities of their officers pursuant to this Agreement to the extent covered by insurance.

Section 12. Insurance

- A. The Tribe and County shall submit evidence of adequate insurance covering each of its law enforcement officers commissioned pursuant to this Agreement.

Section 13. Costs

- A. The County and Tribe shall each assume responsibility for all costs incurred by their own officers under this Agreement.

Section 14. Oversight Committee

- A. A committee consisting of tribal and county law enforcement officers shall review activities and methods of performance undertaken pursuant to this Agreement.
- B. The Tribe's Chief of Police and the County Sheriff shall serve as co-chairman and shall jointly set dates and places for meetings and shall jointly preside over meetings.

- C. This committee may recommend to the signatories of the Agreement any amendments to this Agreement, the plans of operation or supplementary agreements for consideration by the parties. This committee shall further review, in the first instance, any dispute raised by either party or by third parties, relating to this Agreement.

Section 15. Regular Meetings

- A. The committee shall meet at least quarterly or more frequently at the call of either the Tribe's Chief of Police or the County Sheriff to discuss the status of the Agreement and invite other law enforcement or other officials to attend as necessary.

Section 16. Duration of Agreement

- A. This Agreement shall remain in full force and effect until and unless terminated by either party as provided in this Agreement.

Section 17. Revocation of Agreement

- A. Either party may revoke this Agreement at any time by formal action of the governing bodies of either the Tribe or County upon thirty (30) days written notice to the other and the revocation shall be effective 30 days after notice is received by the other party.

- B. Upon revocation of the Agreement,

1. The County shall return to the Tribe's Chief of Police all Tribal Citation forms in its possession and be reimbursed for the unused citations.

Section 18. Amendments

- A. This Agreement shall not be amended except by an instrument in writing executed by the signatories below and attached to this Agreement.

Section 19. Saving

- A. This Agreement shall not confer any authority on a county or state court or other state or county authority which that court or authority would not otherwise have.
- B. Nothing in this Agreement shall be construed to cede any jurisdiction of either of the parties, to waive any immunities, to modify the legal requirements for arrest or search and seizure or to otherwise modify the legal rights of any person, to accomplish any act violative of tribal, state or federal law or to subject the parties to any liability to which they would not be subject by law.

Section 20. Severability

- A. The provisions of this Agreement are severable and should any provision be held invalid or unenforceable, the remainder of the Agreement remains in effect unless terminated as provided in this Agreement.

Section 23. Repealers

A. This Agreement constitutes the entire Agreement between the parties. All written agreements previously entered into between the parties regarding the cross-deputization of officers are mutually rescinded upon the execution of this Agreement.

The effective date of this Agreement shall be the 21st day of Feb., 1989.

IN WITNESS THEREOF, the parties have executed the Agreement the date and year first above written by authority of the Colorado River Indian Tribal Council and County of La Paz.

COUNTY OF LA PAZ

COLORADO RIVER INDIAN TRIBES

BY: *Lene Fisher*
Chairman, Board of Supervisors

BY: *David Eddy*
(Tribal Chairman)

DATE: 2-21-89

DATE: 2-29-89

BY: *Marvin L. Hesse*
(County Sheriff)

BY: *Edward G. [Signature]*
(Chief of Police)

DATE: 2-21-89

DATE: 2-27-89

BY: *G. B. [Signature]*
(County Attorney)

BY: *William D. [Signature]*
(Tribal Attorney)

DATE: 2-21-89

DATE: 2/22/89

MUTUAL ISSUES RESOLUTION AGREEMENT BETWEEN
THE COLORADO RIVER INDIAN TRIBES AND THE TOWN OF PARKER, ARIZONA

PREAMBLE

This Agreement dated October 13, 1989, is between the Colorado River Indian Tribes ("Tribe") and the Town of Parker, Arizona ("Town").

The Tribe is authorized to enter agreements with state, local and federal governments pursuant to Article VI, Section 1(a) of the Constitution and Bylaws of the Colorado River Indian Tribes. The Town is authorized by § 11-952 of the Arizona Revised Statutes to enter into agreements with other governmental units.

The Tribe and Town each wish to establish a method to resolve issues of mutual interest and concern.

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

Section 1. Definitions

As used in this Agreement:

"Issue" means any matter, proceeding or action that necessitates or that the two governments are desirous of resolving, pursuing or handling jointly by the two governments.

"Town" means Town of Parker, Arizona

"Tribe" means Colorado River Indian Tribes

"T & T" means Tribe and Town

Section 2. Requesting the Resolution of an Issue

- A. The Tribal Chairman or the Town Mayor may request in writing to the other, the need to resolve a specific issue which is of mutual interest and concern to the Tribe and Town.

Section 3. Responding to a Request for the Resolution of an Issue

- A. Upon receiving a request (written notice) for the resolution of an issue, the Tribal Chairman and the Town Mayor shall, within thirty (30) days, call the T & T Negotiating Team into Session.

MUTUAL AGREEMENT

PAGE 2

Section 4. Negotiating Team

- A. The T & T Negotiating Team shall consist of the Tribal Chairman and two (2) Tribal Council Members as appointed by the Tribal Council; and the Town Mayor and two (2) Town Council Members as appointed by the Town Council.

Section 5. Special Meetings

- A. The T & T Negotiating Team shall meet only at the joint call of the Tribal Chairman and the Town Mayor to resolve one single issue at a time.
- B. The location of the special meetings of the T & T Negotiating Team shall be determined by the Tribal Chairman.
- C. In addition to the members of the T & T Negotiating Team, the Tribal Chairman and Town Mayor may agree to invite one or more of their respective officials, or department heads; however, the respective attorneys of the Tribe and Town shall not participate in or attend T & T Negotiating Meetings.

Section 6. Negotiating Team Recommendations

- A. Whenever the Negotiating Team agrees on the method to best resolve an Issue which is of mutual interest and concern to the Tribe and Town, it shall make it's written recommendation which the Tribal Chairman and Town Mayor will present for action to their respective Councils, i.e., the Tribal Council and the Town Council, at the earliest date possible.

Section 7. Duration of Agreement

- A. This Agreement shall remain in full force and effect until and unless terminated by either party as provided in this Agreement.

Section 8. Revocation of Agreement

- A. Either party may revoke this Agreement at any time by formal action of the governing bodies of either the Tribe or Town upon sixty (60) days written notice to the other and the revocation shall be effective sixty (60) days after notice is received by the other party.

Section 9. Amendments

- A. This Agreement shall not be amended except by an instrument in writing executed by the officials below, or their successors, and attached to this Agreement.

Section 10. Severability

- A. The provisions of this Agreement are severable and should any provision be held invalid or unenforceable, the remainder of the Agreement remains in effect, unless terminated as provided in this Agreement.

Section 11. Notice

- A. Any notice required or permitted to be given under this Agreement shall be deemed sufficient if given in writing and sent by registered or certified mail.
- B. In the case of the Town, notices shall be sent to:

Mayor Roberta Hoffman
Town of Parker, Arizona
1314 11th Street
Parker, Arizona 85344

- C. In the case of the Tribe, notices shall be sent to:

Tribal Chairman Daniel Eddy, Jr.
Colorado River Indian Tribes
Route 1, Box 23-B
Parker, Arizona 85344

Section 12. Repealers

- A. This Agreement constitutes the entire Agreement between the parties. All written agreements, if any, previously entered into between the parties regarding the establishment of a T & T Negotiating Team for the Resolution of Issues are mutually rescinded upon the execution of this Agreement.

The effective date of this Agreement shall be the 13th
date of October, 1989.

MUTUAL AGREEMENT
PAGE 4

IN WITNESS THEREOF, the parties have executed the Agreement the date and year first above written by authority of the Colorado River Indian Tribes Tribal Council and Town of Parker, Arizona Town Council.

TOWN OF PARKER, ARIZONA

COLORADO RIVER INDIAN TRIBES
(Resolution No. 20-89)

BY: Roberta Hoffman
Roberta Hoffman
Mayor, Town of Parker

BY: Daniel Eddy, Jr.
Daniel Eddy, Jr.
Chairman, Tribal Council

DATE: October 13, 1989

DATE: October 13, 1989

BY: George Kruse
George Kruse
Clerk, Town of Parker

BY: Lawanda Laffoon
Lawanda Laffoon
Secretary, Tribal Council

DATE: October 13, 1989

DATE: October 13, 1989

APPROVED AS TO FORM:

BY: [Signature]
(Town Attorney)

DATE: October 17, 1989

STATE AND TRIBAL COURT INTERACTION: BUILDING COOPERATION
AN ARIZONA PERSPECTIVE

D. Important Arizona Cases on State--Tribal Jurisdiction

Listed below are cases involving jurisdiction which arose in Arizona and which were decided by the United States Supreme Court. We appreciate Arizona State University, College of Law, Professor John Leshy's assistance in providing this list of cases.

Albert Duro v. Edward Reina, Chief of Police, 110 S. St. 2053 (1990)

Arizona et al. v. San Carlos Apache Tribe of Arizona et al., 463 U.S. 545; 103 S. Ct. 3201 (1983)

White Mountain Apache Tribe et al. v. Bracker et al., 448 U.S. 136; 100 S. Ct. 2578 (1980)

Central Machinery Co. v. Arizona State Tax Commission, 448 U.S. 160 (1980)

McClanahan v. Arizona State Tax Commission, 411 U.S. 164 (1973)

United States v. Southern Pacific Transportation Company, 543 F.2d 676, (9th Cir. 1976)

Williams v. Lee, 358 U.S. 217 (1959)

STATE AND TRIBAL COURT INTERACTION: BUILDING COOPERATION
AN ARIZONA PERSPECTIVE

E. Uniform Enforcement of State and Tribal Court Judgments Act

The attached uniform act is provided as a model for adoption by the State of Arizona and any Indian tribes/nations which choose to participate with the state and other tribes/nations which have adopted the act. The Uniform Act is effective only between jurisdictions which have adopted the act.

**Uniform Enforcement of
State and Tribal Court Judgments Act**

SEC. 1. Purposes

The purposes of this Act are to facilitate, improve and extend by reciprocal legislation the enforcement of judgments between the State of Arizona and the various Indian tribes within Arizona and among the various Indian tribes within Arizona.

SEC. 2. Definitions

- (a) "Court" means the court of this jurisdiction.
- (b) "Judgment" means any judgment, decree, or order of a signatory to this Act which is final in the rendering jurisdiction.
- (c) "Judgment holder" means one who has had a judgment rendered in his favor.
- (d) "Judgment obligated" means one who has had a judgment rendered against him.
- (e) "Jurisdiction" means the State of Arizona and any Indian tribe whose reservation is wholly or partially within the State of Arizona.
- (f) "Rendering jurisdiction" means the jurisdiction in which the judgment was made.

SEC. 3. Filing judgments

A copy of any judgment authenticated in accordance with the laws and procedures of the rendering jurisdiction may be filed in the Office of the Clerk of [any] [the] _____ court of this jurisdiction. The clerk shall treat the judgment in the same manner as a judgment of the _____ court of this jurisdiction.

The filing of a judgment shall be deemed a certification by the judgment holder or the judgment holder's attorney that no subsequent orders vacating, modifying or reversing the judgment filed have been entered in the rendering jurisdiction.

SEC. 4. Status of judgments

A judgment filed under Sec. S above has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of a _____ court of this jurisdiction and may be enforced or satisfied in like manner.

The defenses to which each judgment is subject include but are not limited to: ineffective service; lack of notice; lack of opportunity to appear; no legal basis in the rendering jurisdiction to make the order.

SEC. 5. Notice of filing

A. At the time of the filing of the judgment, the judgment holder or his lawyer shall make and file with the clerk of the _____ court an affidavit setting forth the name and last known post office address of the judgment obligated and the judgment holder.

B. Promptly upon the filing of the judgment and the affidavit, the clerk shall mail notice of the filing of the judgment to the judgment obligated at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment holder and the judgment holder's attorney, if any, in this jurisdiction. In addition, the judgment holder shall mail a notice of the filing of the judgment to the judgment obligated and shall file proof of mailing with the clerk.

SEC. 6. Stay of enforcement of judgment

A. If the judgment obligated shows the _____ court that in the rendering jurisdiction an appeal from the judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment obligated has furnished the security for the satisfaction of the judgment, if any, required by the rendering jurisdiction..

B. If the judgment obligated shows the _____ court any ground upon which enforcement of a judgment of any _____ court of this jurisdiction would be stayed, the court shall stay enforcement of the judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this jurisdiction.

C. No execution or other process for enforcement of a judgment filed under Sec. S shall issue until ____ days after the date the clerk shall have mailed the notice of filing of the judgment.

SEC. 7. Filing fees

Any person filing a judgment shall pay to the clerk a fee of _____ dollars. Fees for docketing, transcription or other enforcement proceedings shall be as provided for judgments of the _____ court.

SEC. 8. Other rights of enforcement

The right of a judgment holder to bring an action to enforce his judgment instead of proceeding under this article remains unimpaired.

SEC. 9. Uniformity of interpretation

This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those jurisdictions which enact it.

SEC. 10. Short title

This article may be cited as the Uniform Enforcement of State and Tribal Court Judgments Act.

10/17/90

STATE AND TRIBAL COURT INTERACTION: BUILDING COOPERATION
AN ARIZONA PERSPECTIVE

F. Public Comments

The attached comment and the verbal comments noted in the minutes of Forum meetings are appreciated and were considered by the Forum in preparing this report. However, inclusion of these comments in no way reflects agreement with the comments by members of the Forum.

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Ass'd.....

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Direct Line: 257-7228
December 10, 1990

David L. Withey
Administrative Office of the Courts
1314 North 3rd Street
Phoenix, Arizona 85004

Dear David:

Responding to your request that written suggestions be submitted for improvement of the Report of the Arizona Court Forum on State and Tribal Court Cooperation, I think it would be well to add a new Section, IV.E, to the effect that a standing committee be established to consider possible federal legislation, and, where appropriate and feasible, draft legislation and organize support for its passage. Many now serious problems would simply go away if Congress could be persuaded to enact better game rules. For an easy example, legislation which would give parties their forum of choice, between state and tribal court, would eliminate the necessity for the report to use the weaseling language "in most cases" in the last paragraph of Section V.B.3, a qualification which sends cold shivers up the spines of those of us who want to encourage our clients to do business with Indians.

For another example, a federal statute permitting off-reservation creditors to sue Indians on off-reservation contracts in state courts and to use state court service and process, including garnishment, even though the Indian works on the reservation, would solve the problem raised by cases such as the recent Begay v. Roberts, _____ Ariz. _____ (CA, Dept. D, No. CA-CV 89-454, Sept. 1990), from the creditors' standpoint, make debt collection easier, and, from the Indians' standpoint, make it easier for them to get credit.

Yours very truly,



Frederick K. Steiner, Jr.

FKS/meg/1860o

P.S. I enclose a parking ticket which I found on my car after the program. Professor Bender said I did not have to do anything about it, but could ignore it, and I am taking him at his word.