EQUAL JUSTICE

Through awareness, education and action

An official publication of the Washington State Minority and Justice Commission

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BAR NONE! INDIAN LAW: WHAT WASHINGTON STATE LAWYERS NEED TO KNOW

Gabriel S. Galanda

On April 7, 2005, several hundred bar leaders joined tribal dignitaries and community members at the Seattle University School of Law to commemorate the Washington State Bar Association (WSBA) Board of Governors unanimous decision on October 22, 2004 to include federal Indian jurisdiction on our state's bar exam beginning in the summer of 2007. Washington State Attorney General Rob McKenna, United States Attorney John McKay, King County Prosecutor Norm Maleng, Association of Washington Tribes Chairman Brian Cladoosby, and Northwest Indian Fish Commission Chairman Billy Frank joined in celebration of a milestone in state-tribal relations.

Our state's new bar exam policy exemplifies the stated purposes of the WSBA's General Rule (GR) 12 to "promote an effective legal system, accessible to all" and "foster and maintain high standards of competence, professionalism, and ethics among its members." While the rare change to Washington's bar exam regime is not founded upon "political or social issues," unrelated to the practice of law, and thus does not violate GR 12(c)(1), our legal community cannot ignore the *significant* social impact the new

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EQUAL JUSTICE

Equal Justice is the official publication of the Washington State Minority and Justice Commission whose goal is elimination of racial and ethnic bias, where it exists, from our state courts. The newsletter is a communications and networking tool providing information about Commission programs, projects and issues of concern.

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INTRODUCTION

Judge Dennis D. Yule

A momentous and historic decision last year by the Washington State Bar Association Board of Governors has prompted us to focus this issue of *Equal Justice*, for the second time in three years, on issues of Native American law and justice. That decision was to include a section in the state bar examination, beginning with the summer, 2007 examination, covering issues of federal Indian jurisdiction. Washington State has become the second state in the nation, following the lead of New Mexico in 2002, to devote a portion of its bar examination to Indian law.

The decision recognizes that the bar must include in its measure of the professional competence of its new members an understanding of principles of the jurisdiction of Indian law and tribal courts. In this issue, Gabriel S. Galanda, both the past president of the Northwest Indian Bar Association and the past chair of the WSBA Indian Law Section, summarizes four basic principles of tribal jurisdiction as to which bar examinees will be required to demonstrate some level of proficiency.

In this issue we also recognize an historic advance in cooperation and comity between tribal and state courts. Judge Douglas W. Luna, of the Central Council Tlingit and Haida Indian Tribes of Alaska, reports on the adoption of the Tribal/State Protocol, also known as the Teague Protocol, at a national conference of tribal, state and federal representatives sponsored by the U.S. Department of Justice Bureau of Justice Assistance this summer in Green Bay, Wisconsin. Its adoption reflects a growing understanding by both tribal and state justice communities of the need for coordination and collaboration between Native American and state courts when their jurisdiction overlaps.

We hope this issue will provoke increased interest in the relationship between Indian law and courts and state law and courts. Readers interested in learning more about federal Indian law may wish to consult the classic treatise on Indian law, *Felix S. Cohen's Handbook of Federal Indian Law* (Michie, 1982). A new revised edition, due out this year, provides a comprehensive general overview of specific areas in federal Indian law.

We close this issue by noting the passing of an extraordinary woman, Judge Constance Baker Motley, who was a pioneer and giant in the struggle for justice and equal opportunity for all Americans.

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Judge Dennis D. Yule is a Superior Court Judge for Franklin and Benton Counties and a Co-Chairperson of the Outreach Sub-Committee for the Minority and Justice Commission.

Celebrating the Courts in an Inclusive Society

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bar exam policy will have on the State of Washington and its citizens.

The new bar exam policy will help ensure the protection of the Washington public; allow indigent Native and non-Native persons access to justice in disputes arising out of Indian Country; increase the diversity of our legal profession; and enhance the historically strained government-to-government dialogue between Washington's state and tribal sovereigns.

Competence. At its core, the issue of including federal Indian law on bar examinations is one of competence and professionalism. In the June 2004 edition of the WSBA's *De Novo* magazine, Tim Woolsey stated it best:

> Including American Indian law on the bar exam will produce new attorneys that can spot issues and competently represent tribal and non-tribal clients in Washington. . . . [I]t is our professional responsibility to be skillfully and thoroughly aware of these issues to uphold minimum standards of competence . . . [and] to zealously advocate for all clients to the best of our ability.

Indeed, Rule of Professional Conduct (RPC) 1.1 makes clear that every attorney has an ethical obligation to provide competent representation to our client and thus to obtain legal knowledge reasonably necessary for the representation.

According to the National Conference of Bar Examiners and the American Bar Association (ABA) Section of Legal Education and Admission to the Bar:

> The bar examination should test the ability of an applicant to identify legal issues . . . such as may be encountered in the practice of law, to engage in a reasoned analysis of the issues and to arrive at a logical solution by the application of fundamental legal principles . . . . Its purpose is to protect the public."[1]

As the Board of Governors concluded, testing fundamental federal Indian law on our bar exam will serve to protect the Washington public, Indians and non-Indians alike, from the unknowing or unwitting practice of Indian law.

Reasoning that Washington lawyers are likely to encounter questions of federal Indian jurisdiction – questions which fundamentally ask whether a tribal, state and/or federal court, if any, has authority to adjudicate a dispute arising out of Indian Country – the Governors concluded that new lawyers must learn the following four tribal jurisdictional principles to properly represent and protect the Washington citizenry.

1. Indian Self-Governance. Indian tribes are "distinct, independent political communities, retaining their original natural rights" in matters of local self-government.[2] While no longer "possessed of the full attributes of sovereignty," tribes remain a "separate people, with the power of regulating their internal and social relations."[3] Essentially, Indians possess "the right . . . to make their own laws and be ruled by them."[4] Accordingly, counsel cannot presume that a business or litigation matter involving a Washington tribe or tribal member(s) and/or implicating tribal self-governance is par for the course and thus subject to state law and jurisdiction.

2. Tribal Civil & Criminal Jurisdiction. Tribal subject matter jurisdiction over civil and criminal matters arising in Indian Country depends predominately upon: (1) whether the defendant is a tribal "member" or "nonmember" (the latter being a person who is not enrolled as a member of the tribe which seeks to assert jurisdiction); (2) whether the events at issue arose on fee, trust or

1. *See* Comprehensive Bar Admission Requirements 2004, at p. ix (www.ncbex.org/pub.htm).
2. *Worcester* v. *Georgia*, 31 U.S. 515 (1832).
3. *U.S. v. Kagama*, 118 U.S. 375 (1886).
4. *Williams v. Lee*, 358 U.S. 217, 220 (1959).

allotted lands; and (3) whether federal laws such as "Public Law 280" (codified at RCW 37.12.010) or the Major Crimes Act, confer on tribal, state and/or federal courts authority to adjudicate the dispute. These *highly* complex and fact-sensitive issues need to be the first area of inquiry for lawyers handling a dispute arising out of Indian Country.

3. Sovereign Immunity. Washington tribes and tribal agencies, entities, and enterprises are generally immune from civil suit, whether in our state's tribal, state or federal courts, for alleged acts or omissions arising on or off the reservation. For any tribunal to have jurisdiction over a claim against a Washington tribe, the tribal sovereign or United States Congress must have clearly and unequivocally waived the tribe's immunity. "Sovereign immunity is not a discretionary doctrine that may be applied as a remedy depending upon the equities of a given situation."[5] Thus, lawyers should not file even the most compelling suit against a tribe without cogent proof of a tribal immunity waiver or their client's claims will be summarily dismissed under Superior Court Civil Rules (CR) 12(b)(1) and 82.5.

4. Indian Child Welfare Act (ICWA). Jurisdiction over the adoption or custody of Indian children is governed by ICWA, which "was enacted to counteract the large scale separations of Indian children from their families, tribes, and culture through adoption or foster care placement, generally in non-Indian homes."[6] While Washington state and tribal courts possess concurrent jurisdiction over Indian adoption or custody matters, the statute makes clear that "[i]n any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding."[7] The failure of a family lawyer (and/or judge) to facilitate the intervention of the child's tribe in such a proceeding could lead to a reversal of the adoption/custody decree and, sadly, removal of the Indian child from the family that was awarded custody.

Washington's new bar exam policy will help our profession protect that which is sacred to us all: health, freedom, home, economic security, and family.

Access to Justice. Our bar's failure to generally understand fundamental Indian law and resultant anxiety about handling matters that implicate tribal jurisdiction, has deprived low-income Washington residents – both Indians and non-Indians – of competent legal counsel and, in turn, of access to tribal and state judicial systems for the resolution of matters affecting basic familial and property rights.

As John Sledd, Director of the Northwest Justice Project's Native American Unit and Indian legal aid warrior for the past 22 years, wrote to the Board of Governors:

> … intake lawyers tell me that three-quarters of volunteer lawyer programs and most staff legal service lawyers will not handle Indian or tribal law cases. As a result, poor Native Americans get help for only one in ten important legal problems, according to the statewide legal needs study. Non-Natives get help for one problem in seven. Both statistics are shocking, but the disparity for Native people is an intolerable discrimination.

The knowledge of basic Indian law that will be instilled in new lawyers through the bar exam will translate into legal help for indigent Native and non-Native people in Washington.

Diversifying the Bar. Native Americans are without question the most under-represented ethnic demographic in the legal profession. Depending upon whom you ask, Native American attorneys comprise between 0.02% and 0.07% of

5. *Chemehuevi Indian Tribe v. California State Bd. of Equalization*, 757 F.2d 1047, 1052 n.6 (9th Cir. 1985).
6. *Matter of Adoption of Crews*, 118 Wn.2d 561, 567 (1992); 25 U.S.C. 1902.
7. 25 U.S.C. 1911(c).

the WSBA's 29,000 members. Nationally, although there are 4.1 million self-identified Native Americans (according to the 2000 Census), one million lawyers, and 35,000 people passing bar exams every year, there are only 1,800 – yes, eighteen *hundred* – Native American attorneys.

Washington's new bar exam policy has sent, and will continue to send, a loud and clear message to Indian Country that the practice of law is relevant to life on the reservation. As a result, Indian youth in Washington will increasingly consider the legal profession as a career option and the 160,000 Indian citizens of our state will some day see their faces reflected in the WSBA.

State-Tribal Relations. In 2004, both the Affiliated Tribes of Northwest Indians, composed of fifty-four Northwest tribes, and the National Congress of American Indians, a consortium of over 230 tribal governments, resolved that twenty-two states, including Washington, should include Indian law on their respective bar exams declaring that:

> [I]f attorneys for the American public, particularly federal, state and local government, better understood the legal concepts of Tribal self-governance and Tribal jurisdiction, there would be fewer disputes and government-to-government dialogue would be greatly enhanced.

In July 2004, state bar leaders joined tribal lawyers and government and education leaders to publicly urge the WSBA to include Indian law on our bar exam. Supporters included Governor Christine Gregoire, Washington State Attorney General Rob McKenna, King County Prosecutor Norm Maleng, United States Attorney John McKay for the Western District of Washington State and his Eastern Washington counterpart Jim McDevitt, and University of Washington and Gonzaga Law School Deans Joe Knight and George Crithchlow. The result: a bar exam policy that harmonizes state and tribal voices and exemplifies government-to-government dialogue in the new millennium.

Kudos to our legal community for supporting and enacting policy that will heighten the standard for legal professionalism, lawyer diversity and tribal-state relations in our state, while lowering the hurdle low-income people must clear to secure access to justice in Washington.

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Gabriel S. Galanda is an associate with the Seattle firm Williams, Kastner & Gibbs, PLLC, past President of the Northwest Indian Bar Association and past Chair of the WSBA Indian Law Section. He is a descendant of the Nomlaki and Concow Tribes, and an enrolled member of the Round Valley Indian Confederation in Northern California.

Celebrating the Courts in an Inclusive Society

TRIBAL JUDICIAL EDUCATION RECEIVES A BOOST FROM BUREAU OF JUSTICE ASSISTANCE

Carolyn Wilson

Tribal judges across the nation are benefiting from the revitalization of the tribal programs offered by the National Tribal Judicial Center at the National Judicial College. In 2003, the National Judicial College received funding from the Bureau of Justice Assistance (BJA), a component of the Office of Justice Programs with the United States Department of Justice, to "institutionalize" its tribal programs through the creation of the National Tribal Judicial Center (NTJC). In addition, the NTJC was awarded a subcontract under the BJA's Tribal Courts Assistance Program to develop nine new courses for tribal judges. The result is a more dynamic curriculum for tribal judicial education.

Improvements in Core Curriculum. One of the unforeseen benefits of adding additional courses to the curriculum was the improvement of the National Tribal Judicial Center's three tuition-based courses "Essential Skills for Tribal Court Judges," "Court Management for Tribal Judges and Court Personnel," and "Essential Skills for Tribal Appellate Judges." For example, the "Essential

Skills for Tribal Appellate Judges" course offered August 15-18, 2005 included sessions in four new topic areas: judicial independence, inherent powers, standards of review and group decision making. Other improvements to the curriculum include greater use of experiential learning methods that engage the participants in the learning process.

In the new courses the faculty has developed curriculum customized for tribal justice in 40-50 new topic areas and is incorporating some of those topics into the core curriculum while in the process of determining which courses to add to the 2006 schedule. The NTJC has also recruited additional faculty and initiated a series of workshops and meetings where the faculty can develop curriculum in substantive areas.

Refinement of Faculty Development Programs. The enhancements in tribal programs go well beyond the increased number of course offerings. One of the most significant changes will be the refinement of the Tribal Faculty Development Workshop, designed to develop faculty for tribal programs who are well-versed in adult learning theory and capable of developing relevant curriculum for tribal judges and court administrators. For the past three years, the NTJC has invited over sixty judges, court administrators, attorneys, advocates and professionals from justice-related fields to participate in its five-day faculty development program. The focus is primarily on technique rather than substance. The NTJC hopes to add workshops in the next few years that will develop faculty in substantive areas, such as domestic violence, evidence, peacemaking or judicial ethics.

This summer, I and four members of the NTJC faculty, the Honorable Ingrid Cumberlidge, the Honorable David Raasch, Kelly Tait, and Karen Bitzer, attended the University of Memphis' prestigious Leadership Institute for Judicial Education to work on the curriculum and materials for NTJC's 2006 Faculty Development Workshop. The team redesigned the Tribal Faculty Development Workshop curriculum to enhance the learning environment for tribal participants by utilizing teaching methods that affirm the culture, social practices, and sovereignty of the participant tribes. The new faculty development course will be presented by the team in the first quarter of 2006. The curriculum will focus on decision making, restorative justice, and peacemaking.

The NTJC team was honored to be the first team dedicated to tribal educational programs invited to the Institute. This opportunity will no doubt have a long-term impact on the quality of NTJC's judicial education programs – and, perhaps, the programs of other technical assistance providers as well.

What's Next? The NTJC looks forward to expanding the curriculum in 2006 and developing goodwill within the tribal communities. This summer the NTJC will conduct a needs assessment to determine how it might best serve the needs of tribal justice systems in the future. Among the issues to be raised is whether there is a need for the development of "Tribal Court Tracks" in foundational courses such as "Special Court Jurisdiction" where the curriculum is designed primarily for state court judges. The assessment will also question recipients about their interest in programs on specific topic areas.

Another area to be studied is distance learning. This year, an NTJC faculty member, the Honorable Elbridge Coochise, completed the National Judicial College's Distance Learning Workshop for Judicial Educators. Distance learning programs are an efficient and practical alternative for tribal judges who want to continue their professional development, but are unable to shut down their courts for extended periods of time. Hopefully, Judge Coochise's attendance in the course is just the beginning of efforts to develop distance learning programs for tribal judges.

The NTJC will also initiate the establishment of an endowment fund for scholarships for candidates in the National Judicial College's Professional Development Certificate Program for Tribal Judicial Skills. In the past year, twenty tribal judges have been accepted in the program. The program is designed to complement existing degrees of judges who desire to achieve a

higher level of judicial expertise relevant to their work in tribal communities. The increasing numbers of candidates requires that a stable source of funds be developed that ensures candidates who qualify for the program in 2006 the opportunity to complete their studies.

For more information on the National Tribal Judicial Center or the National Judicial College, contact NTJC Program Attorney Carolyn Wilson at ntjc@judges.org or telephone (800) 25-JUDGE.

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Carolyn Wilson is the Program Attorney for the National Tribal Judicial Center.

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TRIBAL DRUG COURTS

Chief Judge Mary L. Pearson

The Spokane Tribe began a tribal drug court program in the late 1990's with grant funds starting first with an adult court, then adding a juvenile drug court.

This community-based approach to addressing alcohol and drug abuse in the tribal drug courts is very effective. It is closer to the tribal custom of the community addressing aberrant behavior as a group to help change behavior—a custom that was present before jails and before the imposition of the western court model on most tribes. Using this blended new/old approach to address alcohol and drug abuse is more effective than the present system of imposing detention or jail time for what is an addiction or dependence.

The alternative approach that drug court allows, however, requires a lot of planning. We spent the better part of six months meeting once a week for one to two hours and attended training on "how to" set up and run the courts. We spent the planning period creating job descriptions, policies and procedures, contracts, incentives and sanctions, as well as going out and sharing what we were doing with the community. Getting community support was a very important piece of the planning and is essential to the success of the program.

We also had four intensive training sessions that included planning strategies as well as background in chemical dependency. The frequent planning meetings helped to solidify the team which was composed of a judge, a prosecutor, a pubic defender, a probation officer and a treatment provider. Teamwork was critical to making this concept work.

The most important element to the treatment modality is the caring and concern, as well as the praise that the client receives at the regular court reviews. Some of the clients have never been rewarded for good behavior and they blossom with the attention they receive from the team and their parents/guardians. The youth discover their strengths and weaknesses with the strength-based approach and the peer pressure during treatment turns into peer support when the program is successfully completed. For some youth this may be the first time they have been successful at anything. For others, it allows them to finish school, which might not have occurred otherwise.

We established a four phased treatment program, of nine to twelve weeks duration for each phase, the duration dependent on the success of the client. The first phase consists of intensive outpatient treatment and a weekly court review. We have separate and graduated sanctions and incentives for juveniles. We have separate counselors, probation officers, and judges for the adult and juvenile court. Otherwise, the team members are the same. We have experienced more success with the juveniles than with adults because the juveniles tend to be more amenable to treatment.

The drug courts are labor intensive. Therefore, it is important to have a dedicated team willing to work long hours and is committed to the program.

Court reviews require appearances by the juvenile and parents/guardian before the team, with the judge sitting at the bench. The report and review can be by the Judge alone and or with the assistance of the treatment provider and probation officer. Last minute excuses are not accepted and if the team is really solid, the judge does not change the decision made by the team at staffing prior to the review. In juvenile court it is best to hold the parents/guardians responsible for the youth so that the entire family can receive treatment if recommended.

It takes about six months for the clients to begin to "work" the program but it soon becomes apparent that coming to court every week and being the center of attention of all in the group, especially hearing from the judge the team's pride in the progress that has been made by that individual, is an uplifting experience for the client.

Having seen the benefits and success of the drug courts, we are planning a Healing Place for Youth for our Juvenile Court at the Coeur d'Alene Tribal Court.

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Chief Judge Mary L. Pearson is Chief Judge for the Spokane Tribe in Eastern Washington.

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TRIBAL CHILD SUPPORT ORDERS

Judge Douglas W. Luna

The United States Department of Health and Human Services (HHS) published the final rules implementing Section 455 (f) of the Social Security Act on March 30, 2004 (69 FR 16638). Section 455(f) of the Social Security Act authorizes the Secretary to make direct payments to an "Indian Tribe" or "tribal organization" that is representing two or more tribes. The Indian Tribe or tribal organization must demonstrate to the satisfaction of the Secretary that it has the capacity to operate a child support enforcement program.

Under the new rules, state child support cases will be transferred to tribal courts receiving federal implementation funding. 45 CFR 309.10.

The direct federal funding of tribal courts is a two stage process for those tribes wishing to take over state child support cases. In the first phase, HHS may provide up to two year implementation grants for the individual tribes. In the second phase, the tribal governments, including their courts that have met the planning and capacity requirements, will have state cases transferred to them. 45 CFR309.16.

The new rules establish requirements for determining the capacity of the tribes or tribal organizations to assume jurisdiction of the state cases. The capacity of the tribal child support enforcement program includes requirements for establishment of paternity, the establishment, modification and enforcement of support orders and locating noncustodial parents. 45 CFR 309.15.

Tribal child support obligations may arise pursuant to a dissolution decree, paternity/child support determination or from a case transferred from the state to an Indian tribal court. A tribal child support order is to be given full faith and credit pursuant to 28 U.S.C. 173(B)(b), which in the definition of "states" "Indian Country" as defined by 18 U.S.C. 1151.

It should be noted that the National Judicial College teaches tribal court judges that they should set a temporary child support obligation when a victim of domestic violence applies for a protective order pursuant to the Violence Against Women Act (VAWA). Once a tribal court protective order is registered it is to be recognized and given full faith and credit pursuant to 18 U.S.C. 2265. This means that a VAWA domestic violence order containing a child support obligation would also be subject to full faith and credit pursuant to 18 U.S.C. 2265 and not 28 U.S.C. 173(B)(b).

One unique aspect of tribal child support orders is that they allow noncustodial parents to satisfy their child support obligation by "non-cash support." "Non-cash support" is defined as "support provided to a family in the nature of

goods and/or services, rather than in cash, but which, nonetheless, has a certain and specific dollar value." 45 CFR 309.05 and .105. However, non-cash payments will not be permitted to satisfy assigned support obligations. 45 CFR 309.105(a)(3)(iii). Tribal judges in other states have advised that the noncustodial parent's non-cash support has included re-roofing a house and automotive work on the custodial parent's car(s).

The Navaho Nation utilizes an administrative hearing process to handle the approximately 4,000 cases that have been transferred from states to it.

Pursuant to earlier federal grants, the Puyallup tribe has a history of having state child support cases transferred to it.

Finally, it has been my experience at the Puyallup tribal court that non-Indians are utilizing tribal courts to enforce state divorce decrees/child support orders against non-Indians working in tribally owned casinos. For example, a custodial parent may garnish the wages of a noncustodial parent employed at a tribal casino in accordance with tribal law.

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Celebrating the Courts in an Inclusive Society

NATIONAL TRIBAL MEETINGS

Judge Douglas W. Luna

The United States Department of Justice's Bureau of Justice Assistance (BJA) in 2005 sponsored national conferences in Anchorage, Alaska; Washington, D.C.; and Green Bay, Wisconsin. The purpose of the meetings was for tribal, federal and state justice communities to join together in the spirit of mutual respect and to promote and sustain collaboration, education and the sharing of resources for the benefit of all people.

Domingo S. Herraiz, Director of the BJA, and the other co-sponsors of the conferences are committed to improving tribal courts. The BJA works with the Tribal Courts Assistance Program to provide court related support to tribal justice systems as authorized by the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (25 U.S.C. Section 3681).

The Washington, D.C. conference was titled "A National Gathering of Tribal Justice Leaders." The Green Bay Conference, titled "Walking on Common Ground; Pathways to Equal Justice," drew participants from across the nation and from federal, state and tribal courts, including Washington State Supreme Court Justices Barbara Madsen and Susan Owens.

The highlight of the Green Bay conference was the signing of the Tribal/State Protocol also known as the "Teague Protocol." As stated in the Protocol:

"The purpose of the Tribal/State Protocol is to: effectively and efficiently allocate judicial resources by providing a legal mechanism which clearly outlines the path a legal dispute will follow when both a Tribal Court and a Circuit Court have each determined it has jurisdiction over a matter. This protocol does not apply to any case in which the controlling law commits exclusive jurisdiction in either the Tribal Court or the Circuit Court."

A copy of the Teague Protocol may be obtained at: www.walkingoncommonground.org.

A news article regarding the momentous event may be obtained at: http://www.wislawjournal.com/archive/2005/0803/tribal.html.

The BJA web site is www.ojp.usdoj.gov/BJA. Included in BJA publications available on the web site are a number of helpful monographs. See, for instance, *Tribal Healing to Wellness Courts: The Key Components*, that both tribal and state judges have found very useful in structuring their resolution of substance abuse cases.

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Judge Douglas W. Luna is Associate Judge for the Central Council Tlingit and Haida Indian Tribes of Alaska and

is a member of the Technical Support Group of the Minority and Justice Commission.

Celebrating the Courts in an Inclusive Society

PROFILES

LynDee Wells

Ms. LynDee Wells is currently a partner and practice group chair for The Indian Law Practice Group in the Seattle office of Dorsey & Whitney, LLP, a national and international law firm. She is a member of the Gros Ventre Tribe of Fort Belknap, Montana. Before attending law school, Ms. Wells worked as an administrator for the Quinault Indian Nation and was active in many regional and national tribal organizations and issues. She was one of the initiators of the effort that eventually resulted in the "Centennial Accord" between the state of Washington and the tribal governments located within the state's borders.

When Ms. Wells began law school at Arizona State University (at age 33 with three children under the age of eight), there were only three Indian students enrolled. While a law student, she actively participated on the law school admissions committee and recruited other Indian students to the law school and was one of the first minority students to be invited to join the law review. She also worked with the dean of the law school, the faculty, and another student, Ms. Gloria Kindig (Apache), to design a formal Indian Law Program which was eventually adopted by the faculty of the law school. The ASU Indian Law Program is now the largest and most successful Indian Law training program in the United States.

Following law school, she clerked for Chief Justice Frank Gordon of the Arizona Supreme Court, then moved to Washington, D.C. where she began practice with the law firm of Winthrop and Stimson (now Pillsbury Winthrop).

Ms. Wells' current practice at Dorsey & Whitney is focused on helping to build tribal governments and businesses. She represents tribal governments before Congress and in the areas of finance and business development, natural resources, tax issues, environmental law, federal-tribal-state relations and gaming law. She is currently pro bono partner for her firm and personally represents clients pro bono on issues related to poverty, mental health, housing and domestic violence as well as tribal environmental issues. Ms. Wells serves as counsel for the National Tribal Environmental Council and is now raising two of her four grandsons.

Robert Anderson

Robert Anderson, a member of the Bois Forte Band of the Chippewa Tribe, received his law degree from the University of Minnesota in 1983 and has spent his entire legal career working on Indian law issues. From 1983 to 1995, Mr. Anderson was a Senior Staff Attorney with the Native American Rights Fund (NARF), a leading national Indian organization representing Indian tribes on issues of federal Indian law. Mr. Anderson is one of two attorneys credited with opening NARF's Alaska office, where he helped to develop the organization's substantive role in Alaska Native rights issues. He has served as counsel for Natives in a number of landmark cases involving tribal sovereignty and hunting and fishing rights in numerous state and federal courts.

In 1995 he became Associate Solicitor for Indian Affairs in the United States Department of the Interior. As Associate Solicitor, he was the lead attorney and supervised a team of attorneys advising the Secretary, Assistant Secretary for Indian Affairs and the Bureau of Indian Affairs, and worked with tribes to assert and protect their legal rights. In 1997, Secretary of the Interior Bruce Babbitt appointed Mr. Anderson as Counselor to the Secretary of the Interior, in which position Mr. Anderson advised the Secretary on a wide variety of policy matters, including Native American, environmental and Northwest issues.

In January 2001, Mr. Anderson agreed to join the University of Washington Law School, as the Harold Shefelman Distinguished Lecturer and as the Director of the new Indian Law Center

where he currently teaches courses in the area of Indian Law, and directs the activities of the Indian Law Center.

Celebrating the Courts in an Inclusive Society

IN MEMORIAM: CONSTANCE BAKER MOTLEY

On September 29, 2005 Judge Constance Baker Motley, United States District Judge for the Southern District of New York, died at age 84. She was widely admired for her great intellect, scholarliness, humanitarianism and refined social and political skills.

One of 12 children, Judge Motley was born September 14, 1921 in New Haven, Connecticut. Upon graduation from high school she worked as a domestic until she took a job with the National Youth Administration. She came to the attention of a wealthy benefactor who offered to pay for her college education. She enrolled at Fisk University in Nashville, Tennessee, but transferred to New York University from which she received a degree in economics. She then enrolled at Columbia Law School, receiving her law degree in 1946. Having previously been an intern with Thurgood Marshall, she then became a full-fledged member of the legal staff of the NAACP Legal Defense and Education Fund's New York office. Admitted to the New York Bar in 1948, she served on the staff of the Fund for 20 years, winning nine civil rights victories in the United States Supreme Court, including James H. Meredith's right to be admitted to the University of Mississippi in 1962. She wrote the briefs in the successful landmark case of *Brown v. Board of Education* (1954).

Outside the courtroom in the political arena, Judge Motley was elected and served from 1964 to 1965 in the New York State Senate and in 1965 was elected the first woman President of the Borough of Manhattan.

Appointed in 1966 to the United States District Court by President Lyndon B. Johnson, she was the first African American woman appointed to the federal bench. She served with great distinction, taking senior status in 1986. In 2001 President William J. Clinton awarded her the Presidential Citizens' Medal in recognition of her achievements and service to the nation.

Those of us privileged to know Judge Constance Baker Motley will remember her for her unique contributions to history—particularly in the legal profession and the judiciary.

Charles Z. Smith

Celebrating the Courts in an Inclusive Society

SPOTLIGHT ON COMMISSION MEMBERS

Judge Deborah D. Fleck

Judge Deborah D. Fleck, King County Superior Court, was awarded the 2005 Outstanding Judge Award by the Washington State Bar Association at its Annual Awards Dinner on September 15, 2005.

Bonnie J. Glenn
&
Karen W. Murray

Ms. Bonnie J. Glenn, Deputy Chief of Staff with the King County Prosecutor's Office, and Ms. Karen W. Murray, a public defender with Associated Counsel for the Accused, received the "Excellence in the Practice of Law Award" from the Loren Miller Bar Association at its Annual Philip L. Burton Memorial Scholarship Dinner on June 3, 2005.

Sudha Shetty

Ms. Sudha Shetty, Director of The Access to Justice Institute at the Seattle University School of Law, received the "Special Contribution to the Judiciary" award from the King County Women Lawyers at their Annual Judicial Appreciation and Honors Luncheon on June 15, 2005.

Celebrating the Courts in an Inclusive Society

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