

# TULALIP TRIBAL COURT

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## MEMORANDUM

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

**FROM:** TULALIP TRIBAL COURT JUDGES

**SUBJECT:** 2009 ANNUAL REPORT

**DATE:** JANUARY 1, 2010

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This report covers the Calendar Year January 1, 2009 to December 31, 2009.

### **I. Annual Summary of Activities.**

#### **A. Summary of Caseload.**

**1. Case Statistics:** The total number of criminal filings increased by 7% over 2008 from 318 new cases to 339 for 2009. These numbers continue to be an overall decrease of about 5% from 2006. This is particularly impressive because the number of adult enrolled tribal members continues to increase each year without a substantial increase in new criminal filings. The traffic infractions have increased substantially over a four year period. 2007 had a doubling of infractions from 2006 and these more than doubled again in 2008. In 2009 traffic citations increased again by about 18% from 533 in 2008 to 643 in 2009.

Civil case filings were down about 12% in 2008 and now are back up by 3%. Thus, overall civil filings remain up over the last four years and remain higher than criminal filings. Youth in need of care filings which were down about 20% in 2008 have substantially increased by about 31% in 2009 (there were 85 in 2007, 65 filings in 2008 and an all time high of 94 filings this year). The general civil filings were down about 12% last year but have increased about 22% this year. Child support cases were up slightly by about 10% from the number filed in 2008. Since the Court began providing Annual Reports in 2006, the following chart demonstrates the three year comparison of

the Court's annual caseload.

<b>YEAR COMPARISON</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>Criminal</b>	<b>353</b>	<b>311</b>	<b>318</b>	<b>339</b>
<b>Traffic</b>	<b>140</b>	<b>260</b>	<b>533</b>	<b>643</b>
<b>Civil</b>	<b>486</b>	<b>601</b>	<b>504</b>	<b>517</b>
<b>Total Cases</b>	<b>979</b>	<b>1172</b>	<b>1355</b>	<b>1499</b>
<b>Total Hearings</b>		<b>5084</b>	<b>6674</b>	<b>8360</b>

In 2007 the Court began tracking the total number of hearings held by the Tribal Court each year. In 2007, the court held 5084 hearings which averaged about 21 hearings per day. In 2008, the Court held about 6674 hearings which are about 26 hearings per day. In 2009, the Court heard an all time high of 8360 hearings which averages about 32 hearings per day. The increase in the number of hearings is partly because of the overall increase in caseload and partially because of the increased complexity of the cases and overall increase in involvement by attorneys.

## II. ANNUAL STATISTICS.

<b>TULALIP TRIBAL COURT</b>			
<b>ACTIVITY REPORT FOR THE PERIOD</b>			
<b>January Through December 2009</b>			
<b>Type of Cases</b>	<b>Filed</b>	<b>Disposed by Quarter</b>	<b>Total Pending</b>
	<b>Total</b>	<b>Total</b>	
<b>Criminal Alcohol</b>	<b>44</b>	<b>83</b>	<b>28</b>
<b>Criminal Drugs</b>	<b>47</b>	<b>54</b>	<b>22</b>
<b>Criminal Domestic Violence</b>	<b>34</b>	<b>51</b>	<b>19</b>
<b>Criminal Fishing</b>	<b>19</b>	<b>27</b>	<b>1</b>
<b>Criminal General</b>	<b>195</b>	<b>273</b>	<b>151</b>
<b>TOTAL CRIMINAL</b>	<b>339</b>	<b>488</b>	<b>221</b>
<b>TOTAL TRAFFIC</b>	<b>643</b>	<b>680</b>	<b>211</b>
<i><b>TOTAL: Criminal &amp; Traffic</b></i>	<i><b>NO</b></i>	<i><b>LONGER COMBINED</b></i>	<i><b>TOTAL FOR 2009</b></i>
<b>Civil Anti-Harassment</b>	<b>23</b>	<b>36</b>	<b>20</b>
<b>Civil Child Support</b>	<b>28</b>	<b>6</b>	<b>76</b>
<b>Civil Child Custody</b>	<b>34</b>	<b>4</b>	<b>178</b>
<b>Civil Divorce</b>	<b>18</b>	<b>13</b>	<b>90</b>
<b>Civil Employment</b>	<b>28</b>	<b>29</b>	<b>24</b>
<b>Civil Gaming</b>	<b>23</b>	<b>27</b>	<b>12</b>
<b>Civil General</b>	<b>140</b>	<b>29</b>	<b>367</b>
<b>Civil Guardianship</b>	<b>47</b>	<b>34</b>	<b>172</b>
<b>Civil Paternity</b>	<b>2</b>	<b>0</b>	<b>13</b>
<b>Civil Restraining Order</b>	<b>32</b>	<b>35</b>	<b>75</b>
<b>Civil Youth in Need of Care</b>	<b>94</b>	<b>46</b>	<b>202</b>
<b>TOTAL CIVIL CASES:</b>	<b>517</b>	<b>281</b>	<b>1229</b>
<b>TOTAL CASES:</b>	<b>1499</b>	<b>1449</b>	<b>1790</b>
<b>TOTAL HEARINGS:</b>	<b>8360</b>		

**2. Not Included in Statistics:** The Court of Appeals heard and issued decisions for 2 cases for 2009. 6 new appeals were filed in 2009 which is 3 times as many as in 2008. This is primarily due to December filing of 4 employment cases which should be resolved in early 2010. The Court has previously addressed the new Court of Appeals ruling in Employment cases.

Fines and Filing fees were up in 2009, primarily because of the increased number of traffic infractions. In 2009, the court collected \$58,969 of which \$11,730 was for civil filing fees and the remaining \$47,239 in criminal and traffic fines. This is compared to 2008, the court collected \$47,084.91 in receipts. In 2007, that amount was \$38,002.94 and \$21,545.40 in 2006.

The Court resolved three personal injury cases under the Tulalip Tort Claims Act. One of them resulted in a week long trial. The Court held two trials in 2009 that lasted a week or longer. The Court also held 3 jury trials.

**B. Wellness Court:** The Wellness Court continues to operate and meet one time per week to staff cases. In 2009, the Court graduated 1 person from Wellness Court for a total of 11 people in 3 years. In the first quarter of 2009, the Wellness Court had a retreat and reviewed the effect of the program. Wellness Court began in June of 2006. Between June of 2006 and the December of 2009, the Wellness Court accepted 35 clients. 11 have successfully graduated, 4 are currently in Wellness Court and the remaining were dismissed because of their substantial non-compliance or refusal to comply with Wellness Court rules. Interestingly, of those dismissed clients, the majority still have not had new criminal charges filed and most have been in or completed treatment and/or are employed. The Wellness Court clients were sentenced to 13,623 jail days but regardless of their successful completion they only did a total of 3,505 days collectively for a savings of over 10,000 jail days.

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

1. Trainings or Presentations by the Judges: Judge Pouley presented at the ATNI to update the Law and Justice Committee on Tulalip's 2008 Congressional Testimony. Judge Pouley also presented Tulalip's interests at the Department of Justice's pre-conference listening sessions on tribal law and justice issues. She was selected as one of the 15 "tribal experts" who provided input on the Department of Justice's Tribal Listening Session held in Minneapolis in October. She was one of the designated tribal facilitators in this historic meeting with tribal leaders from across the nation. Judge Pouley also presented on therapeutic jurisprudence at the National Gaming Conference in Muckleshoot; on concurrent jurisdiction over child custody cases at the Annual State Judicial Conference; and on Indian Law 101 for the Washington State Department of Corrections. Judge Bass participated and presented at the Annual Washington State Bar Associations Leadership Institute.

2. Meetings attended:

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

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

c. All legal staff including the Judges continued to work on the revisions to Ordinance 49 throughout 2009. The meetings were held 2 to 4 times per month

depending on the participant's schedules for all of 2009. The final version of Ordinance 49 was completed and adopted by the Board of Directors in December of 2009

d. Judge Bass participated in the Snohomish County Juvenile Court meetings in 2009 to plan and implement a Tulalip Community Accountability Board (CAB) which meets with Tulalip youth offenders in the state court system. The CAB began seeing youth offenders in 2009 and saw about 12 Tulalip youth.

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

f. The court had visitors from a variety of tribes and countries seeking to establish Courts or view an operating tribal court. The Pechuga Tribe from California visited the Court in an effort to implement their own court system. The Court had visitors from Afghanistan, Belarus and Korea who were visiting scholars from their respective countries striving to develop their own justice systems that was arranged through the University of Washington.

g. The Court, Beda?chelh, Tribal Police were honored to host a visit from the U.S. Department of Justice and the Assistant and Associate Attorney General who were visiting Tulalip in preparation for their Listening Session and announcing grant awards to Washington Tribes.

#### **D. Other Court Programs:**

**1. Elders Panel:** The Tulalip Elders Panel completed its third year. It continues to be comprised of volunteer Tulalip elders who wish to provide services for young first time offenders (between about 21 to 25 years of age). In 2009, a delegation from Makah visited the Court and in particular wished to view and replicate the Elders Panel. The Elders Panel was honored by the Washington State Bar Association for their efforts in 2009.

- 2. Probation Office:** The goal of the Probation Department is to provide assistance to tribal members in meeting their court-ordered requirements.
- a.** Probation monitors about 200 to 220 active cases in 2009.
  - b.** As the primary presenting officer for persons being reviewed with sentencing requirements, Probation attended, prepared, and presented at about 950 court hearings in 2009.
  - c.** Community Service: Approximately 20 probationers completed 300 hours of community service work for the year.

- 3. Mediation:** The Court has arranged with NICS to provide an on-site mediator one day per month for the first six months. After substantial progress in mediation for the first six months, the Court continued the program throughout 2009. The mediator meets every third Friday with persons involved in family law matters like dissolution or child custody cases. The mediation has been very successful and has substantially increased the number of agreed parenting plans being adopted by the parties and the Court. A more extensive statistical analysis of its success is underway. The mediation program may be expanded in 2010.

4. **Guardian Ad Litem and Conflict Defense Attorneys:** The Court extensively relies on guardian ad litem (advocates for the children) in child custody cases. The Court also maintains a list of outside attorneys it uses when the University of Washington has a conflict representing a client. The Court will closely monitor these costs, but anticipates it will have to ask for additional funding for these services in 2010.

### III. **Planning for 2009** – Court Development

A. **Judges:** In 2009, Judge Bass and Judge Pouley will again change their primary court calendars. Judge Bass will return to the civil calendar and Judge Pouley will return to the criminal calendar. The Judges plan to continue to rotate the primary calendars' on a yearly basis. Just as with last year's change, this should not fundamentally affect decision-making. However, it does provide for consistency in decision-making by the Court.

B. **Court Staff:** One of the much welcomed changes for 2009 was the addition of a Court Director. As the newly-hired court director, she made it a point to meet with the Tribes' justice folks, and also met one-on-one with the Court Clerks & Probation staff.

1. We now have monthly Court staff meetings to go over how to improve or enhance court functions, processes, and procedures.

2. We have continued monthly Law & Justice Committee meetings.

3. The Director participates in the CEDARS Drug Committee who meet once a month (Coalition Eliminating Drugs Around the Rez).

4. The Director joined the National Court Management Association (provides current information on court management issues).

5. In 2009, started preliminary collection of information to design and launch a Tribal Court website for 2010.

6. The Director wrote 10 court-related articles for the See-Yaht-Sub in 2009 (including warrant quashes, probation officer, exclusions question and answer, Elder's Panel Washington State Bar Association Award, Why Does the Tribe use the Public Defense Clinic, etc.)