



**University of New Mexico School of Law's  
Southwest Indian Law Clinic and Institute of Public Law  
in collaboration with the American Indian Law Center, Inc.**

**TRIBAL COURT TRAINING PROGRAM FOR JUDGES**  
*Funded by the BIA Office of Justice Services*

Agenda (**Draft**)

March 15–18, 2011

Bureau of Indian Affairs, National Indian Program Training Center  
1011 Indian School Rd. NW, Albuquerque, NM 87104

This course has been approved by the New Mexico Minimum Continuing Legal Education Board for 22.4 hours of general credit and 2 hours of ethics credit.

**Day One (New Judges), Tuesday, March 15, 2011:**

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| 8:00 a.m. – 8:10 a.m.   | Welcome – <b>Helen Padilla, Esq.</b> , Director,<br>American Indian Law Center, Inc.  |
| 8:10 a.m. – 9:10 a.m.   | Unit 1: Background of Tribal Courts – <b>Cheryl Fairbanks</b> , Partner, and<br><b>Matt Campbell</b> , Associate, Cuddy & McCarthy, LLP <ul style="list-style-type: none"><li>• Indigenous justice systems</li><li>• Federal policy in the development of Tribal Courts</li><li>• Tribal Law</li><li>• Models</li></ul> |
| 9:10 a.m. – 9:20 a.m.   | Break   |
| 9:20 a.m. – 10:00 a.m.  | Unit 2: Jurisdiction – <b>Kelly Huddleston</b> , Contract Attorney, Cuddy &<br>McCarthy, LLP and <b>Professor Barbara Creel</b> , University of New<br>Mexico School of Law <ul style="list-style-type: none"><li>• Civil</li><li>• Criminal</li></ul>  |
| 10:00 a.m. – 10:10 a.m. | Break   |
| 10:10 a.m. – 11:10 a.m. | Unit 3: Overview of the criminal justice system – <b>Cynthia Aragon</b><br>Partner, Aragon & Soto Hall, LLC   |

- Roles (flow chart provided)
- Judicial powers
- Juvenile delinquency cases

11:10 a.m. – 11:20 a.m.	Break
11:20 a.m. – 12:20 p.m.	Unit 4: Introduction to the Indian Civil Rights Act and the Major Crimes Act – <b>Dean Kevin Washburn</b> , University of New Mexico School of Law
12:20 p.m. – 1:50 p.m.	Lunch on your own
1:50 p.m. – 2:50 p.m.	Unit 5: Introduction to Ethics – <b>Paul Biderman</b> , Director, Institute of Public Law and <b>Judge James Wechsler</b> , New Mexico Court of Appeals
5:30 p.m. – 7:00 p.m.	Reception (light refreshments), Indian Pueblo Cultural Center, Pottery Room

**Day Two (New Judges and Experienced Judges) Wednesday, March 16, 2011:**

8:00 a.m. – 8:10 a.m.	Welcome and Announcements – <b>Helen Padilla, Esq.</b> Director, American Indian Law Center, Inc. and <b>Dean Kevin Washburn</b> , University of New Mexico School of Law
8:10 a.m. – 9:25 a.m.	Unit 1: Background of Tribal Courts Part A: Indigenous justice systems and internal law and process – <b>Cynthia Aragon</b> , Partner, Aragon & Soto Hall, LLC <ul style="list-style-type: none"> <li>• No written law</li> <li>• Tribal custom and tradition as law</li> <li>• Code development and maintenance</li> <li>• Non-binding federal and state authority</li> </ul>
9:25 a.m. – 9:35 a.m.	Break
9:35 a.m. – 10:35 a.m.	Part B: Federal policy in the development of Tribal Courts including the Tribal Law and Order Act of 2010 – <b>Cynthia Aragon</b> , Partner, Aragon & Soto Hall, LLC and <b>Dean Kevin Washburn</b> , University of New Mexico School of Law
10:35 a.m. – 10:50 a.m.	Comment period
10:50 a.m. – 11:00 a.m.	Break
11:00 a.m. – 12:15 p.m.	Part C: Jurisdiction – <b>Professor Barbara Creel</b> , University of New Mexico School of Law and <b>Judge William Zuger</b> , Standing Rock Sioux Tribal Court <ul style="list-style-type: none"> <li>• Territorial</li> </ul>

- Personal
- Subject matter and victims (civil and criminal)
- Public Law 280
- Full faith and credit and comity
- Coordination with state courts and state agencies

12:15 p.m. – 1:15 p.m.	Lunch provided
1:15 p.m. – 2:15 p.m.	Part D: Separation of powers – <b>Professor Gloria Valencia Weber</b> , University of New Mexico School of Law and <b>Judge Robert Medina</b> , Pueblo of Isleta Tribal Court and Pueblo of Zia Tribal Court <ul style="list-style-type: none"> <li>• Autonomy</li> <li>• Independent</li> <li>• Bi-furcated court systems</li> <li>• Separation of church and state versus theocracy</li> <li>• Tribal contempt powers (civil and criminal); tribal member versus non-tribal member</li> </ul>
2:15 p.m. – 2:30 p.m.	Comment period
2:30 p.m. – 2:40 p.m.	Break
2:40 p.m. – 3:40 p.m.	Unit 2: Domestic Violence and Sexual Assault – <b>Carrie Martell</b> , Attorney, <b>Rosalie Chavez</b> , Managing Attorney, Native American Program for New Mexico Legal Aid, and <b>Special Agent Carleen Fischer</b> , Bureau of Indian Affairs, Office of Justice Services-Northern Pueblo Agency Office <ul style="list-style-type: none"> <li>• The problem</li> <li>• Investigation</li> <li>• Victims</li> </ul>
3:40 p.m. – 3:50 p.m.	Break
3:50 p.m. – 4:20 p.m.	Unit 2: Domestic Violence and Sexual Assault <i>continued</i>

**Day Three (New Judges and Experienced Judges) Thursday, March 17, 2011:**

8:00 a.m. – 9:30 a.m.	Unit 3: Criminal case process – Adult Part A: <b>Randall Van Vleck</b> , General Counsel, New Mexico Municipal League and <b>Judge Anthony Little</b> , Ak-Chin Tribal Court <ul style="list-style-type: none"> <li>• Charging document: criminal complaint or citation</li> <li>• Arrest without a warrant – establishing probable cause</li> <li>• Arrest warrant versus summons</li> <li>• Subpoena versus summons</li> </ul>
9:30 a.m. – 9:40 a.m.	Break
9:40 a.m. – 11:10 a.m.	Part B: <b>Randall Van Vleck</b> , General Counsel, New Mexico Municipal

League and **Judge Melvin Stoof**, Pascua Yaqui Tribal Court

- Initial appearance and bonding
  - Mock scenario
- Juveniles
- Arraignment
  - Preview of Indian Civil Rights Act (ICRA)
  - Mock scenario
- Bail as part of release including prior history
- Scheduling and pre-trial hearings

11:10 a.m. – 11:20 p.m. Break

11:20 a.m. – 12:50 p.m. Part C: **Randall Van Vleck**, General Counsel, New Mexico Municipal League and **Judge William Zuger**, Standing Rock Sioux Tribal Court

- Detention and release
- Contempt of court and issuance of bench warrant for failure to comply with release conditions (factors to consider - fines or detention or both)
- Negotiation and plea bargaining
- Victims
- Mock scenario

12:50 p.m. – 1:50 p.m. Lunch

1:50 p.m. – 3:50 p.m. Part D: **Randall Van Vleck**, General Counsel, New Mexico Municipal League and **Judge Anthony Little**, Ak-Chin Tribal Court

- Pre-trial motion hearings with mocks
- Bench trial with mock scenarios (handling adversarial defendants and witnesses, use of side bars, use of in chamber conferences, use of in camera inspections and interviews, and use of authority to seal and issue gag orders)
- Evidentiary rulings with various mock evidentiary rulings
- Interlocutory appeals
- Sentencing, suspended sentence, and alternatives
  - Traditional courts (incarceration discussion on whether or not to incarcerate and if so, where?)
  - Alternatives to include family courts, drug courts, juvenile courts and looking at a model from metro courts regarding juveniles
- Probation violations and probation revocations
- Appeal

3:50 p.m. – 4:00 p.m. Break

4:00 p.m. – 4:45 p.m. Unit 4: Ethics with reference to criminal case mock scenarios – **Paul Biderman**, Director, Institute of Public Law, **Judge James Wechsler**, New Mexico Court of Appeals, and **Judge Robert**

**Medina, Pueblo of Isleta Tribal Court and Pueblo of Zia Tribal Court**

4:45 p.m. – 5:00 p.m. Comment period

**Day Four (New Judges and Experienced Judges) Friday, March 18, 2011:**

8:00 a.m. – 8:10 a.m. Announcements

8:10 a.m. – 9:25 a.m. Unit 5: Indian Civil Rights Act (ICRA) and the Major Crimes Act –  
**Professor Barbara Creel**, University of New Mexico School of Law

- Refer to the criminal case process and when ICRA and the criminal case process intersects
- Preserve evidentiary scenes
- Successive federal prosecutions

9:25 a.m. – 9:40 a.m. Comment period

9:40 a.m. – 9:50 a.m. Break

9:50 a.m. – 10:50 a.m. Unit 6: Juvenile delinquency cases –  
**Judge Anthony Little**, Ak-Chin Tribal Court

10:50 a.m. – 11:00 a.m. Break

11:00 a.m. – 12:00 p.m. Unit 7: Habeas Corpus – **Professor Barbara Creel**, University of New Mexico School of Law

12:00 p.m. – 1:30 p.m. Lunch on your own

1:30 p.m. – 2:00 p.m. Unit 8: Indigenous justice systems and application of custom and tradition in an adversarial court model – **Cynthia Aragon**, Partner, Aragon & Soto Hall, LLC

2:00 p.m. – 2:45 p.m. Unit 9: A Tribal perspective on the Tribal Law and Order Act of 2010 as it pertains to Tribal Courts – **Casey Douma**, General Counsel, Pueblo of Laguna

- Tribal protective

2:45 p.m. – 2:55 p.m. Break

2:55 p.m. – 3:55 p.m. Unit 10: Practical aspects of court operations –  
**Judge William Zuger**, Standing Rock Sioux Tribal Court

- Overview of the court administrative system
- Courtroom etiquette

3:55 p.m. – 4:10 p.m. Final Announcements and Closing