



**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 PROSECUTORS
Funded by the BIA Office of Justice Services

Agenda (Draft)

March 28 – 30, 2011

Bureau of Indian Affairs, National Indian Program Training Center (Room 271)
1011 Indian School Rd. NW, Albuquerque, NM 87104

This course has been approved by the New Mexico Minimum Continuing Legal Education Board for 18 hours of general credit and 1 hour of ethics credit.

Day One (Monday, March 28):

8:30* - 8:45 am Opening Prayer, Welcome and Announcements

8:45 - 10:00 am Unit 1: Background and jurisdiction - **Cynthia Aragon**, Partner, Aragon & Soto Hall, LLC

Part A: Background of Tribal Courts

- Indigenous justice systems including restorative justice
- Federal policy in the development of Tribal Courts
- Cultural sensitivity

10:00 - 10:15 am Break

10:15 - 11:45 am Part B: Jurisdiction - **Sheri Freemont**, Chief Prosecutor, Salt River Pima Maricopa Indian Community

- Territorial
- Personal
- Subject matter (civil and criminal)
- Public Law 280
- Full faith and credit and comity
- Coordination with federal and state courts and federal and state agencies, state/tribal agreements

*Please arrive 10 - 15 minutes early to allow time to go through security.

- 11:45 - 1:00 pm Lunch on your own
- 1:00 - 2:00 pm Unit 2: Internal law and process - **Cynthia Aragon**, Partner, Aragon & Soto Hall, LLC, and **Sheri Freemont**, Chief Prosecutor, Salt River Pima Maricopa Indian Community
- No written law
 - Tribal custom and tradition as law
 - Code development and maintenance
 - Non-binding federal and state authority
- 2:00 - 2:10 pm Break
- 2:10 - 3:10 pm Unit 3: Separation of powers - **Sheri Freemont**, Chief Prosecutor, Salt River Pima Maricopa Indian Community, and **Sherrie Harris**, former tribal prosecutor for the San Carlos Apache Tribal Court and UNM SILC law student
- Autonomy of prosecutor
 - Independence of prosecutor
 - Ethical duties of prosecutor / asymmetry
- 3:10 - 3:20 pm Break
- 3:20 - 4:50 pm Unit 4: Domestic Violence and Sexual Assault - **Carrie Martell**, Assistant District Attorney, First Judicial District, State of New Mexico, and **Cynthia Aragon**, Partner, Aragon & Soto Hall, LLC
- The problem
 - Roles in the investigation
 - Victims
 - Victims Bill of Rights
 - Civil remedy options (contempt citations and protective orders)
 - Pre-view of the Tribal Law and Order Act of 2010 as it pertains to Tribal Courts
- 5:30 - 7:00 p.m. Reception (light refreshments), Indian Pueblo Cultural Center, Pottery Room

Day Two (Tuesday, March 29):

- 8:00 - 9:30 am Unit 5: Criminal case process - **Sheri Freemont**, Chief Prosecutor, Salt River Pima Maricopa Indian Community
- Part A:
- Charging document: criminal complaint or citation

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- Arrest with a warrant
- Arrest without a warrant – establishing probable cause
- Prosecutorial discretion and declination reports by the US Attorney’s Office
- Right to a speedy trial, if applicable
- Summons

9:30 – 10:00 am Part B: **Professor Barbara Creel**, University of New Mexico School of Law, and **Sheri Freemont**, Chief Prosecutor, Salt River Pima Maricopa Indian Community

- Right to counsel

10:00 – 10:15 am Break

10:15 – 11:30 am Part C: **Sheri Freemont**, Chief Prosecutor, Salt River Pima Maricopa Indian Community

- Initial appearance, waiver of counsel, and bonding
 - Probable cause standards to address for release, bonding, and alternatives
- Arraignment
 - Preview of Indian Civil Rights Act (ICRA) – procedural due process
- Scheduling and pre-trial hearings

11:30 – 12:15 pm Part D: **Kyle Nayback**, Assistant United States Attorney

- Trial preparation
 - Use of checklists
 - Preparation of witnesses
 - Preparation of victims
- Detention and release
 - Tribal/state relations for jail space
- Negotiation and plea bargaining

12:15 – 1:15 pm Lunch provided

1:15 – 2:45 pm Part E: **Sheri Freemont**, Chief Prosecutor, Salt River Pima Maricopa Indian Community

- Bench trial
- Introduction of evidence
- Examination of witnesses
- Victims

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- 2:45 – 3:00 pm Break
- 3:00 – 4:00 pm Part F: **Sheri Freemont**, Chief Prosecutor, Salt River Pima Maricopa Indian Community
- Sentencing, suspended sentence, and alternatives (restorative justice)
 - Victims
 - Appeal
- 4:00 - 4:05 pm Break
- 4:05 – 4:50 pm Part G: **Cynthia Aragon**, Partner, Aragon & Soto Hall, LLC
- Post-conviction
 - Probation or parole violations
 - Victims
 - Community service
 - Counseling services

Day Three (Wednesday, March 30):

- 8:00 – 9:30 am Unit 6: Juvenile delinquency cases – **Cynthia Aragon**, Partner, Aragon & Soto Hall, LLC, and **Judge Anthony Little**, Ak-Chin Tribal Court
- Civil and criminal
 - Status offenses
 - Release to parent or third party or detention
- 9:30 – 9:45 am Break
- 9:45 – 10:45 am Unit 7: Habeas Corpus and the Indian Civil Rights Act – substantive due process – **Professor Barbara Creel**, University of New Mexico School of Law, and **Vincent Knight**, Attorney
- Refer to the criminal case process and when ICRA and the criminal case process intersect
- 10:45 – 10:55 am Break
- 10:55- 11:45 am Unit 8: The Tribal Law and Order Act of 2010
- A Tribal perspective – **Casey Douma**, General Counsel, Pueblo of Laguna
- 11:45 – 1:15 pm Lunch on your own
- 1:15 – 2:15 pm Unit 8: continued - **Professor Barbara Creel**, University of New Mexico School of Law, and **Kyle Nayback**, Assistant United States Attorney

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- Sentence stacking
- Working with liaisons
- Dual investigations - how will it work?

2:15 - 2:30 pm Break

2:30 - 3:40 pm Unit 9: Application of custom and tradition in an adversarial court model and other alternatives - **Cynthia Aragon**, Partner, Aragon & Soto Hall, LLC, and **Vincent Knight**, Attorney

- Restorative justice
- Banishment
- Membership
- Diversion programs

3:40 - 3:45 pm Closing Prayer