

Fundamental Court Processes, Calendaring Techniques, Service of Process

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By Stephanie Salazar, Pueblo of Isleta Prosecutor's Office and Melanie P. Fritzsche, Staff Attorney, AILC

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Case Processing

How is a case processed?

Typically:

- Tribal Court Clerk accepts a filing.
- New case
 - A docket number is assigned and a case file is opened.
- Pending case
 - The filing is placed in chronological order in the existing case file.
- Calendaring
- Notice – Service of Process
- Proceeding(s)
- Order(s)
- Appeal

Checklists

- Assists to keep case files and records organized
- Deadlines
- Tab requirements in tribal code

Filings Accepted

- First and foremost please refer to the Tribal Code, Rules of Court, and any written policies
- General basic guidelines:
 - Are the parties identified?
 - If using a form, are all blanks completed?
 - Did the party sign the filing?
 - Is there a filing fee? If so, was it paid?

Filing Fees

- Does the Tribal Code authorize the collection of filing fees?
- Are the filing fees posted?
 - Where should they be posted?
- What forms of payment are accepted?

File Stamp

- Upon accepting a filing, immediately file stamp it to show that the Tribal Court has accepted it as part of the official case record.
- A responsibility of a court clerk is to accurately and properly preserve the official case record.
- File stamping and organization of documents is critical to accurately and properly preserving the official case record.

Official case record

- When file stamping, be careful that documents filed are not evidence as this information must be introduced through parties at trial
 - Civil case: interrogatories, reports
 - Criminal Case: DWI reports, crash reports, witness statements, etc.
- Ask yourself whether the information needs to be introduced at trial before a judge has access.
- Look at who is filing – are they a party to the case or a witness? Is everyone getting a copy?

Setting up a case file

- Documents are file stamped.
- Docket number is assigned.
- Abbreviations for cases are used in the docket number assigned.
 - CV
 - CR
 - CH
 - JV
- Color coding files or color coding labels

Setting up a case file (con't)

- **Left-hand side of a case file**
 - Index
 - Notes from the bench
 - Contact information sheet

Setting up a case file (con't)

- **Right-hand side of a case file**
 - All filings accepted by the Tribal Court
 - All orders issued by the Tribal Court
- Arrange the documents in reverse chronological order
- Tab all documents for easy reference and have the number correspond to the number listed in the index
- Use a fastener to keep documents secure

Organizing case files

- What process /procedure helps you stay organized?
 - Tickler system
 - Calendaring
 - Organization bins
- Organize by date accepted
- Finding time to organize case files (closing early, staggered hours, other ideas?)

Calendaring

- Schedule hearings
- Determine the date to serve notice of hearing
- Trial (typically a bench trial)
 - Witness list
 - Exhibits
- Deadlines
 - Payments
 - Probation or jail time lapses (update if violation occurs)
 - Reports due from probation officers, behavioral health, social service worker, etc.
- Reminders

Calendaring with Microsoft Outlook

The screenshot displays the Microsoft Outlook calendar interface. The ribbon at the top includes tabs for Home, Send / Receive, Folder, and View. The main area shows a monthly calendar for August 2017, centered on Albuquerque, New Mexico. The calendar grid shows dates from Sunday, July 30, to Saturday, August 26. Meetings are represented by colored bars with their start times and titles. A search bar for people and an address book are visible in the top right corner.

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jul 30	31 9:30am CR-2017-098, CR... 9:30am CV 2017-044, CV...	Aug 1 8:30am CH-2017-022	2	3	4	5
6	7 8:00am CR-2017-098, CR... 8:00am CV-2017-044, CV...	8 8:30am CH-2017-022	9	10	11 8:30am CV-2017-029, CV-2017-021	12
13	14 9:00am CV-2017-044 Br... 10:00am CV-2017-122 J...	15 10:00am CH-2017-022 In the Matter of R.J.	16 9:00am CR-2017-099; CR-2016-120	17	18 8:00am CV-2017-029, CV-2017-021	19
20	21	22	23 8:30am CR-2017-099; CR-2016-120	24	25 10:00am CV-2017-029 S... 10:30am CV-2017-021 L...	26
27	28	29	30 9:00am Pueblo of Sandia... 10:00am CR-2017-099 P...	31	2	

YouTube Tutorials

Outlook Tutorial:

- https://youtu.be/hdoEJ34vU_k

Microsoft Word Tutorial:

- <https://www.google.com/url?q=https://www.youtube.com/playlist?list%3DPLF3C4D69A278327E2&source=gmail&ust=1538018629592000&usg=AFQjCNHs6bXQVtZruxjCvnU4SA7sfHqbrA>

Tickler Filing System - Manual



- Tickler Filing System- allows you to remember important deadlines, easy to use, inexpensive.
- Arranged by days of the month.
- Each day you pull out the folder for the day and complete the tasks filed in the folder.
- If a hearing is scheduled for 12/18 then you would want to file a reminder to mail the notice of hearing on 12/4.
- Once the notice is sent, file the case 1 week out (12/11) to verify that service was completed.

Docket

- Is it published? Posted?
 - Check tribal code, rules of court, administrative order
- Publishing a docket provides access to justice, but can also be very controversial
 - How does your community feel about a public docket?

Service of Process

- Service of Process is important for due process.
- For example: Service of process for a notice of hearing. A party (defendant) does not show at the hearing. The Judge will hold a hearing on the record and rely on the documentation of the notice to hold the party responsible.
- Review tribal code for time frames to serve documents.
- If tribal code does not include a time frame or there is not a tribal code, notices are served within a reasonable time.
- File stamp

Service of Process (Con't)

- Ways that service is conducted:
 - Police officers
 - Mail
 - Fax
 - Pick up at Tribal Court
- Proof of service must be received by the Tribal Court to show proper service.
 - “I certified that I mailed first-class the notice of hearing. . . .” or
 - Individual, who is served, signs log or
 - Other types of proof.
- Document attempts to serve
- File stamp
- Place proof of service or documentation of attempts to serve in case file with copy of the notice, order, etc.
- Create entry on index for the service of process and tab documents

Proceedings

- Civil hearings
 - Petition or a complaint is filed.
 - An answer is filed.
- Criminal hearings
 - Arraignment
 - Plea of not guilty, guilty or no contest
 - Sentencing
 - Violation of probation may occur and a hearing is held
- Review or status hearing

Orders

- Orders are the opinion of the Tribal Court
- Orders contain deadlines for calendaring.
- Orders may specifically state a date for the next hearing or refer to a time frame “within 30 days from date of this Order.”
- All orders must be file stamped to show that they are officially part of the record.
- All parties must receive orders. Proof of service is crucial to show that the order was provided to the party and to document due process.
- Final order
- Closure order
 - Helps to give direction in archiving the case

Appeals

- Is there an appellate process?
- The lower court is responsible for preparing the record for the appellate court. Some appellate courts do not use the lower court record. Know what your court does.
- The official record contains the documents that are file stamped.
- An organized file greatly assists in being ready for an appeal.



Data

Using data: Budget and grant funding

- Grant funding is always available, but you need numbers!
- Using numbers to show: Increased work load, high volume of cases, trends in the cases.
- Data should be shared with Tribal Leadership.
- How is your data organized? Make sure that your data is organized in a way that allows you to pull out information easily.

Utilizing spreadsheets

How does your court organize case data?

- First: ask what is it that I am measuring?
- Second: what is the most efficient way to organize this data (case type/date filed/case number)
- Third: Input data into a spreadsheet in a way that allows information to be manipulated and utilized in different ways.
- Keep in mind that too much data can be confusing, be critical, focus on the objective and who will be reviewing your data?

Data- Other considerations

- Data may help you identify trends in crime and can be used to alert Tribal Council.
 - For instance, more complaints are being filed that involve drug charges - this is important for tribal leadership to know.
 - Domestic violence and high recidivism rates?
 - Review data critically, identify trends.
- Also look at the length of time that it is taking to resolve cases, especially sensitive cases such as domestic violence, juvenile cases, and cases where a defendant is incarcerated – Need a speedy resolution! Are these cases being resolved timely?

Data- Case processing

- How efficiently is the court processing its cases?
- What is “efficient”? At a minimum, there should always be compliance with the Rules of Criminal and Civil Procedure.
- Just because you have statutory deadlines, does not mean you can't schedule hearings and other proceedings sooner. Think best practice.
- If your court does not have any rules, look to state and federal rules for guidance.
 - Consider adding the Federal Rules of Civil Procedure and Criminal Procedure to your budget requests or review rules online.

Case Closure Ratio

- Tracking the case closure ratio
- High case closure ratios will often indicate a lower backlog of cases.
- Low case closure ratios will mean that more cases are being rolled over into the following year (not good for due process concerns)
- The longer that a case is active means more delay, less cooperation from witnesses, more opportunities for a defendant to reoffend, no immediate consequences.

Calculating the case closure ratio

- Number of closed cases in the year, divided by the number of cases opened that year.
- 2017: 54 criminal cases opened and 30 criminal cases closed
- $30/54 = 55\%$ of cases being closed each year (low)
- 55% would indicate that there is a backlog developing at the court.
- This calculation be done each month, quarterly, or yearly.
- Criminal cases should generally have a higher closure ratio
- Civil cases typically take longer to resolve.

Disposition of cases

- Track the disposition of cases, how many cases are being dismissed, resolved by a plea agreement, trial?
- If cases are plead, what is ordered by the court? (probation, counseling, mediation, restitution)
- It is useful to look at the recidivism rates, consider what is working and what is not working? (Data can show us whether the process is working)
- Where and how are closed cases stored and for how long?
 - Cases should be preserved for a set period of time and should be placed in a secure location (waterproof, fireproof)

Data Resources

- Anne E. Casey Foundation: <https://community.aecf.org>
- National Center for State Courts:
<https://www.ncsc.org/Topics/Court-Management/Caseflow-Management/Resource-Guide.aspx>



Communication

Types of Communication External

- Communication with the public
 - Educational efforts- court open house, court clinic, brochures
 - More information = less surprises and delays
 - Explaining the process versus giving legal advice
 - Understanding the question
 - “What is being asked?” Relay what you understood back to the customer
- Exercises

Legal Advice v. Customer Service

We can	Explain and answer questions about how the court works.	We cannot	Tell you whether or not you should bring your case to court or predict the outcome of a case filed in court.
We can	Encourage you to obtain legal advice from licensed attorney and provide you with the number to the state bar lawyer referral program. State Bar of NM Referral Program: (505) 797-6066 or 1-800-876-6227	We cannot	Tell you what words to use in your court papers (However we can check your forms for completeness, i.e. signatures, notarization, correct case number, and presence of attachments).

Legal Advice v. Customer Service

We can	Give you general information about court rules, procedures, and practices.	We cannot	Tell you what to say in court.
We can	Provide court schedules and information on how to get a case scheduled.	We cannot	Give you an opinion about what will happen if you bring your case to court.
We can	Provide you information from your case file.	We cannot	Talk to the judge for you.

Internal Communication

- Best practice: have regular staff meetings, take minutes, hold staff accountable
- What do you do when the “process” doesn’t work?
- Regular meetings with service providers to address policy/practice
- Written vs. verbal policies- Strive to have all policies written, what happens if you leave? Someone should be able to come in and have guidance from a policy
- Focus on cross training!

Questions???