

Tribal Justice

Law & Order Cases

POSSESSION OF ALCOHOL	BOOTLEGGING	DRUNK & DISORDERLY
DUI	SALE & POSSESSION OF DRUGS	JUVENILE CASES – MINOR CONSUMING, TRUANCY



- Charges filed by tribal government
- Enforced through police
- Usually limited to tribal members
- Considered “quasi-criminal”
- Can be resolved by court or council hearing, or restorative justice/healing circle

Considerations:

Jurisdiction: Tribes enjoy sovereign power to prosecute their members for tribal offenses. There may be challenges if outside Indian Country. No recognition of tribal court criminal jurisdiction over non-Natives.

Federal/state/tribal governments have concurrent jurisdiction and can ALL prosecute without violating double jeopardy.

Capacity: Is there law enforcement to investigate? File charges? Testify at a hearing?

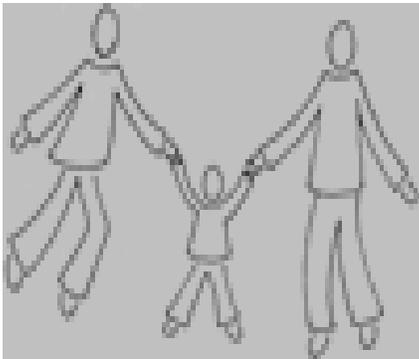
Who will organize the hearing or healing circle?

Enforcement: What happens if the offender does not comply with the penalty?

Family Wellness Court

Custody & Other Family Orders

ADOPTION	GUARDIANSHIP	CHILD PROTECTION (ICWA)
CUSTODY BETWEEN PARENTS/RELATIVES	DIVORCE/DISSOLUTION	CHILD SUPPORT
PATERNITY	EMANCIPATION	



Cases filed by family members or social worker (ICWA)

Due process: notice to ALL parties

Enforced through social services/police

For benefit of children who are tribal members or eligible for membership

Considerations:

Jurisdiction: Alaskan tribes have inherent authority to decide domestic relations cases involving their members.

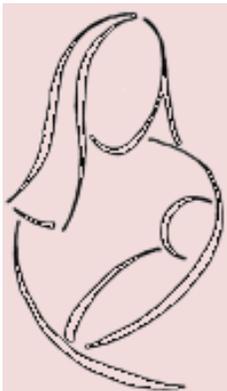
Capacity: Will you need social workers? Court appointed special advocates? Someone to run background checks? Someone to do home studies? Are there supportive services for families in need?

Enforcement: How will orders be enforced if someone does not follow them?

Nonmembers: The scope of authority over non-member parties is unsettled. There is probably authority over any person that voluntarily agrees to be in tribal court. There may be significant problems exercising authority over non-member parties in non-ICWA cases.

Family Violence Court: Civil Protection/Restraining Orders

DOMESTIC VIOLENCE	ELDER ABUSE
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- Petition filed by or on behalf of victim
- Due process: notice to perpetrator
- Enforced through police/Alaska Troopers
- Simple court registration

Considerations:

- Jurisdiction:** Tribes have jurisdiction over family violence issues, and authority to enforce protection orders, exclude violators from Indian lands, and subject respondents to state criminal penalties for violation of tribal court orders.
- Capacity:** Will you need victim advocates? Are there adequate services to enforce orders?
- Non-members:** If the perpetrator is a non-member, the tribal court will have to get that person's consent to jurisdiction or show that the person has a "consensual relationship" with the Tribe or that the person's conduct "threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe."
- Remedies:** In addition to a no-contact order, the tribal court can impose conditions of sobriety, restitution, and participation in treatment.
- Banishment:** *Native Village of Perryville v. Tague* (3AN-00-12445 CI). The state court upheld the remote Village's order to banish a tribal member from Perryville for multiple acts of violence. Notice was given to the individual and the remedy sought by the tribal court was specific and narrow.

Wellness Court: Supporting Recovery

DRUG & ALCOHOL ABUSE	MENTAL HEALTH
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Petition for help by individual

Referral from family, police, clinic, clergy

Voluntary participation in tribally-designed support and supervision program

Work in tandem with professional treatment providers

Considerations:

Jurisdiction: For tribal members or caretakers of tribal member children

Structure: Only guidance is to consider traditional, tribal methods of healing and self-empowerment