

Nevada Legal Services's Indian Law Project:

Serving Nevada's Tribal Communities

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The information provided in this article is not, and is not intended to, constitute legal advice. All information in this article is for general informational purposes only.

The Indian Law Project (ILP) of Nevada Legal Services Inc. provides free legal services to tribes and tribal members. The work of ILP focuses on housing preservation and family preservation in Indian Country, which encompasses jurisdictions covered by numerous tribal courts, state courts, federal courts, and administrative forums across the state of Nevada. ILP is the only legal aid program in Nevada that specializes in tribal law, and it has served Nevada's tribal communities since 1974 when the Legal Services Corp. was created.

Beginning as the Nevada Indian Rural Legal Services Program in Carson City, the organization later joined with other legal aid providers to form what is known today as Nevada Legal Services.

Funding for ILP has fluctuated over the years based on the priorities of various federal administrations, and ILP has employed anywhere from one to five full-time staffers. Today, ILP employs four full-time employees, but does not have the resources to adequately serve the legal needs of all of Nevada's tribes and tribal members. With so much unmet legal need, attorneys should consider how their current practice might be expanded to serve those in tribal communities. While this article can serve as a starting point in this endeavor, lawyers should conduct their own investigation of the relevant authorities and are encouraged to contact our office with questions or inquiries.

At the outset, it is important to remember that there are 574 federally recognized tribes, all of which are sovereign nations with their own governments, laws, and justice systems. There are 20 federally recognized Indian tribes whose land bases are located in whole or in part within the exterior boundaries of the state of Nevada. Among these 20 federally recognized tribes are 19 tribal courts, as well as the Inter-Tribal Court of Appeals of Nevada, which provides appellate review for nine of these tribal courts.

While this article discusses "tribal courts" in general terms for the sake of brevity, readers should remember that each tribe has its own governing body and justice system. The tribal courts of these tribal nations do not have the same codes, court rules, or constitutions. One tribal court is not like another, just as a Nevada state court is not the same as a California state court. Similarly, references to "Nevada tribes" or "tribes in Nevada" is not meant to convey that the above-mentioned 20 federally recognized tribes are subject to state authority and is instead a shorthand for discussing those tribes whose land bases are geographically located within the exterior boundaries of Nevada.

Note: Sources differ regarding the number of federally recognized tribes in Nevada, citing anywhere from 17 to 21 tribes, and likewise vary in the number of reported bands, councils, communities, colonies, and reservations. These discrepancies are most likely due to the fact that several tribal land bases span the Nevada state borders with California, Arizona, Oregon, Idaho, and Utah, and the government seats of some of these tribes are located outside of the exterior boundaries of the state of Nevada. The important point is that tribes in Nevada are numerous, diverse, and separate, and that practitioners should be aware of the various land bases and governing institutions unique to each tribe.

Case Types and Legal Needs

Tribal courts are courts of general jurisdiction and in most cases will have jurisdiction to hear any civil or criminal matter. The most common legal issues for which ILP receives requests for assistance are child custody, minor guardianships, evictions, child dependency, Indian wills, probate, and criminal defense.

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CONTINUED ON PAGE 10

Nevada Legal Services’s Indian Law Project

Tribal courts are not required to provide an attorney, and defendants in tribal courts are often left to navigate the criminal legal process without counsel. Similarly, many parents facing the removal of their children and prospective termination of parental rights must represent themselves before the court. Access to legal counsel in these and other situations where fundamental rights and liberties are at stake is especially difficult, as few tribal members can afford private legal counsel. Additionally, there are few private attorneys who are familiar with federal Indian law or the numerous tribal law and order codes of different tribes, and who practice in tribal courts. As a result, if ILP cannot provide services, many litigants in tribal courts represent themselves.

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tribal court has its own set of requirements and process to gain admission to practice. Some tribal courts require a one-time application and fee, which then provides for lifetime admission, while others require annual renewal. Some tribal courts administer their own bar examination, which covers topics in tribal and federal Indian law, while others require a letter requesting admission. Many tribal courts also provide for permission to appear in an individual case (at a reduced fee) in addition to general admission to practice. Most tribal courts allow for both attorneys and lay advocates to apply for admission to practice and maintain a different set of admission requirements for each. Typically, the required application forms and

instructions can be obtained from the clerk of the tribal court in which admission is sought.

Admission to Practice in Tribal Court

Just as in state or federal court, an attorney wishing to practice in a tribal court must first seek and be granted admission. Each

Applicable Law in Tribal Courts

The Numu (Northern Paiute), Newe (Western Shoshone), Wašiw (Washoe), and Nuwuvi (Southern Paiute) have self-governed according to their respective laws since time immemorial. Today, each of the federally recognized tribes in Nevada is organized under their own constitution, and most have enacted their own law and order codes. Careful review and knowledge of the tribe’s law and order code is essential to practice in a tribal court, and many tribal courts require an oath affirming the same upon admission to practice. Other sources of law that frequently apply to tribal court practice are the decisions of the Inter-Tribal Court of Appeals of Nevada, the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1304, and tribal custom. Most tribal law and order codes provide for the persuasive application of federal and state law, and some even adopt the Federal Rules of Evidence for use in their tribal court. Other federal statutes and regulations can apply in Indian country, and it is important to conduct a thorough jurisdictional analysis to determine which laws apply in a particular case.

Norms of Practice in Tribal Courts

In addition to knowledge of the tribe’s law and order code, attorneys practicing in tribal court should learn the standards of behavior and communication within that particular tribal community. In order to be an effective advocate, attorneys should demonstrate respect for the tribal court and argue in a manner that ensures that is aligned with community expectations and standards.

To learn about these standards of behavior and communication, attorneys should be attentive to the conduct of others in court sessions, ask questions as needed, and demonstrate gratitude toward those who extend their knowledge. While in-person attendance at court sessions



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is favored, most tribal courts permit virtual appearances as needed. The court calendars are unique to each tribal court, and most tribal courts hold regular court sessions on a weekly, bi-weekly, or monthly basis. Some tribal courts only hold evening court sessions, and current court calendars can be verified by the clerk of the court. In addition, most, if not all, of the tribal courts in Nevada permit online filing via email.

Final Thoughts

Even if you are not considering an active practice in tribal courts, awareness and understanding of our neighboring tribal nations, their systems of governance, and the intricate system of federal and tribal law at play can enhance your professional knowledge, as well as your personal perspective. Readers are encouraged to access local resources such as the Nevada Indian Commission, the Pyramid Lake Paiute Museum, the Stewart Indian Museum, and the Inter-Tribal Council of Nevada to learn more about the history and context of tribal institutions and governments.

If you are interested in accepting cases in tribal court on a pro bono basis, please contact Nevada Legal Services' Pro Bono Coordinator, Edith Medina, at emedina@nevadalegalservices.org.

ALEXANDRA RAWLINGS is the directing attorney of the Indian Law Project and Worker's Rights Law Program, two of Nevada Legal Services' statewide special projects. She represents tribes and tribal members in various forums in family law, dependency, criminal defense, and housing cases, as well as other civil matters. Her practice focuses on expanding the capacity and functionality of tribal institutions to foster growth, stability, and wellness in tribal communities.



An alumna of Harvard Law School and the University of Washington, Rawlings is licensed to practice law in the states of Washington and Nevada (special licensure pursuant to Supreme Court Rule 49.1(1)(c)), as well as the U.S. District Court for the District of Nevada, Tulalip Tribal Court, Pyramid Lake Tribal Court, Yerington Tribal Court, Fort McDermitt Tribal Court, Duck Valley Tribal Court, Fallon Tribal Court, Washoe Tribal Court, Reno-Sparks Indian Colony Tribal Court, Lovelock Tribal Court, Ely Shoshone Tribal Court, and Las Vegas Tribal Court, as well as various Court of Indian Offenses courts.



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