

Nevada's Tribal Courts: Applicable Laws, Court Rules, and Contact Information

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There are 20 federally recognized tribes in Nevada. “Federally recognized” means that the federal government acknowledges the tribe as eligible for federal funding. There are 28 reservations. Some tribes have political subdivisions called bands, colonies, or communities. Tribes in Nevada can have multiple bands, colonies, or communities.¹

Tribal courts operate under tribal law. Each tribe has its own laws, which can address every area of law imaginable. Like other governments, a tribe is a sovereign government and can adopt its own constitution or choose to operate without formal written laws under “custom and tradition.” These laws can determine membership, voting rights, and rules to elect its own governing body. Tribal law can also reference state law, laws of other tribes, federal law, or rules of court as a guide when the tribe’s code is lacking in law.^{2,3}

A decade ago, *Nevada Lawyer* published an article about Nevada’s tribal courts outlining each tribal court location and staff contact information. Recently, a

national survey of tribal courts was completed by the National American Indian Court Judges Association, and two other prominent Indian law resources. Most of this information is outdated as soon as it is published.

The simplest and most efficient way to find current tribal court contact information is to conduct an internet search for a specific tribal court. Most tribal courts are in the process of establishing or have an existing presence on the web. Some will provide contact information for the clerk, names of judges, hours of operation, the tribe’s laws and constitution, rules of court, forms, the court docket, requirements for practice in that jurisdiction, and other useful

information. If the court does not have its own website, a call to the tribe’s administrative offices or tribal headquarters often results in obtaining this information.

Tribal courts can have full- or part-time clerks who can often be reached during regular business hours and often outside of business hours. Several tribal courts are in session multiple days each week, including the Pyramid Lake Paiute Tribal Court, the Washoe Tribe of Nevada and

California’s Tribal Court, and the Reno Sparks Indian Colony Tribal Court. Others hold court twice a month, including the Yerington Paiute’s Tribal Court. Still others hold court once or twice a month,

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as the Lovelock Paiute and Duckwater Shoshone Tribal Courts do, or are in session as needed, scheduled on a case-by-case basis, including the Winnemucca Indian Colony's Tribal Court and the Las Vegas Paiute's Tribal Court.

Who are tribal court judges?

Depending on applicable tribal law, tribal judges can be appointed or elected, while minimum qualifications vary among jurisdictions. A tribe may require the judge to be a member of the tribe, a member of any tribe, or may not require tribal membership at all. Judges may be required to hold a law degree or merely graduate from high school. However, just as Nevada courts do not require a law degree for judicial officers, non-attorneys can and do serve as tribal judges.

Due to limited needs and resources, tribes may contract judges on a schedule that works for the tribe and the judge. Most have a single judge who presides on an as-needed basis. The judges' contracts often require them to attend continuing education and to maintain an active bar license in good standing in their licensing state.

Nevada tribal court judges serve in multiple places, see changes in laws, evaluate jurisdictional questions, and more.

A Nevada tribal court judge's typical day varies like any state judge. Unlike their state or federal counterparts, tribal judges often serve on more than one bench. They also may serve in different capacities at different tribes. For example, a person may serve as a prosecutor, a trial court judge, and an appellate judge for three different tribal courts. Several of Nevada's tribal court judges also serve in tribal courts in Arizona, California, and South Dakota.

A tribal court may have exclusive jurisdiction over people and cases in controversy, or it may have concurrent jurisdiction as with federal or state courts. A tribal court judge regularly determines personal jurisdiction over

a party brought before the court, has subject matter jurisdiction over the issues presented, and whether the tribal court has territorial jurisdiction over the location of the issue in controversy. The Washoe Tribe of Nevada and California has the added concern that its lands are partially in California, a state where the federal government relinquished its jurisdiction over crimes to the state under Public Law 280.⁴

Like other governments, tribes regularly amend and enact new laws. Tribal law is in constant flux, so laws enacted in 1990 will not be identical to the law in 2010 or 2023. Contact the tribal court clerk to make sure you have the current law, code, or ordinance.

Because tribal courts are courts of general jurisdiction, the types of cases heard may be any type of criminal and civil matter. The same court may preside over civil law such as traffic, animal control, dependency, dissolutions, contract disputes, or criminal cases, such as domestic violence and assault.

Appeals to Tribal Appeals Courts and Beyond

Some tribes have their own appellate courts: Duckwater Shoshone Tribal Court and Fallon Paiute's Tribal Court are examples. Many others use the Inter-Tribal Court of Appeals for Nevada, which is housed in the Intertribal Council of Nevada's offices in Reno.

Tribal court decisions, just like those in state courts, are also subject to appeal. After all tribal remedies are exhausted, tribal judges are well aware that the same decision may be

reviewed by the federal courts, and possibly even state courts under certain circumstances. Tribal court judges must remain well-versed in tribal law across the U.S.



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Practice in Tribal Courts: Licensing

If you are licensed in Nevada, it does not mean you are licensed in all tribal courts. An attorney would need to acquire each court's appointment criteria. Usually, for state-licensed attorneys, the process requires paying a fee, filling out a bar membership application, and taking an oath to uphold the tribe's laws and constitution. Some tribal courts even have ethics codes applicable to bar and bench.

Winnemucca Indian Colony's Tribal Court and a Comparison of Other Tribal Courts

I serve as chief judge for the Winnemucca Indian Colony ("Colony"), appointed by the Tribal Council of the Colony. That colony recently established its own court after having previously used a CFR court.⁵ A CFR court, otherwise known as a Court of Indian Offenses, is

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an Article One⁶ court operated by the Bureau of Indian Affairs (BIA) that has full civil jurisdiction over all matters on that tribe's lands, misdemeanor criminal jurisdiction over violations of Title 25 of the U.S. Code, and violations of the tribe's laws if the tribe chooses to grant jurisdiction over such matters to that court.

The Colony has granted its court full subject matter jurisdiction over all matters, whether civil or criminal, to the extent permitted under federal law. The tribal court has territorial jurisdiction over all the lands within the territory of the colony, whether the lands are held in trust for the Colony or the tribe holds the lands in fee.⁷ The colony's court also has personal jurisdiction over all people residing on the colony, those whose acts occurred within the colony, domestic corporations, and certain other people.⁸

The Washoe Tribe of Nevada and California exercises criminal and civil jurisdiction, including dependency, probate, juvenile offender, and general civil cases. Several tribes have their own police departments. Other tribes obtain police services through the BIA law enforcement unit. Jail services are generally provided at a county jail through a contract between either the tribe and the county, or the BIA and the county.

Tribal courts in Nevada are busy, growing, and thriving. Each tribal court is an exercise of the tribe's sovereignty. Tribal laws may differ from state or federal practice, but they often overlap and are complimentary to each other. Tribal judges are professionals who are educated in the law applicable to the tribal court, and often must navigate the jurisdictional maze of federal Indian law. Hopefully this article engages your curiosity to learn more about the Nevada tribal courts near you, and it may even encourage you to practice in tribal court in the future.

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ENDNOTES:

1. [Search Federally Recognized Tribes | Indian Affairs \(bia.gov\)](#) and [Tribal Directory - Nevada Indian Commission](#).
2. An example is Washoe Tribal Law and Order Code Section 1-30-010, which can be found at: [Title 1 Washoe Tribal Court Current as of 2019 \(7\).pdf](#).
3. The jurisdictional maze of federal, state, and tribal law applicability is exceedingly complicated. For additional information, look to Cohen's Handbook of Federal Indian Law, available through Lexis/Nexis at: [Cohen's Handbook of Federal Indian Law | LexisNexis Store](#).
4. Act of Aug. 15, 1953, ch 505, Pub. L. No. 83-280, 67 Stat. 588, codified at 18 U.S.C. § 1162, 28 U.S.C. § 1360, and 25 U.S.C. §§ 1321–26. See, [What is Public Law 280 and where does it apply? | Indian Affairs \(bia.gov\)](#) for further information.
5. [Court of Indian Offenses | Indian Affairs \(bia.gov\)](#).
6. Constitution of the United States, Art. I.
7. Winnemucca Indian Colony Law and Order Code (WICLOC) §1-20-010 describes the territorial jurisdiction for the court.
8. See WICLOC §1-20-020(b).



Aerial view of the Pyramid Lake Native American Reservation.