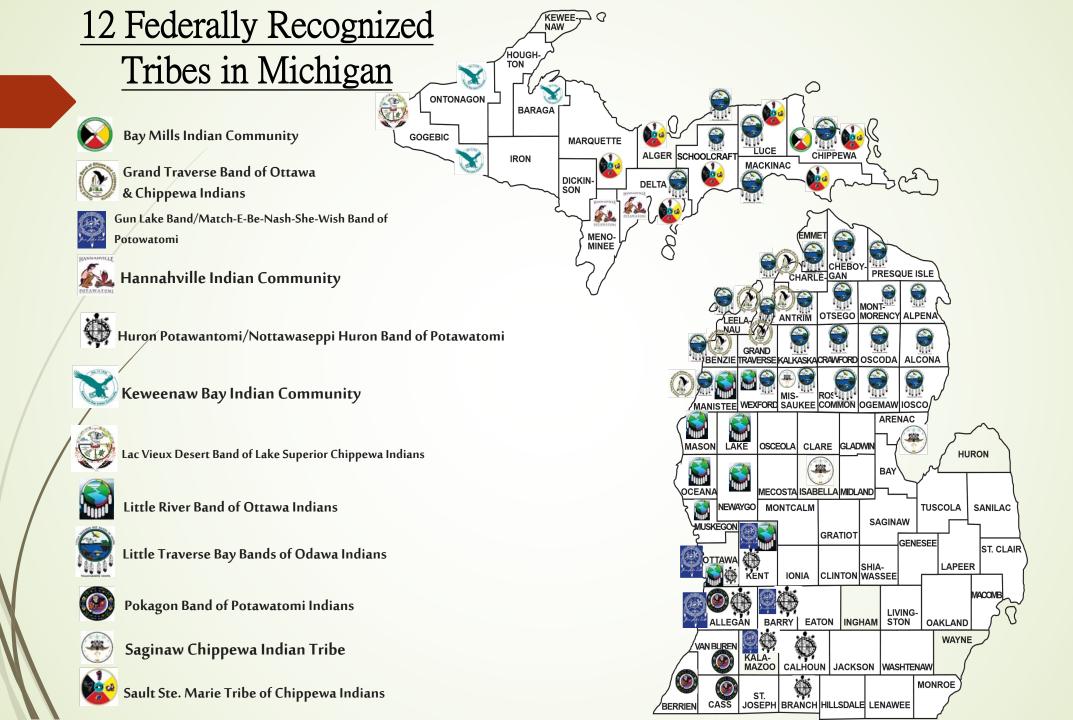
Michigan Tribal State Federal Judicial Forum

Government to Government Relationships in Domestic Violence and Child Welfare Matters



1992 Indian Tribal Court/ State Trial Court Forum

- Grant from the National Center for State Courts
- Three tribal court judges; Four state court judges
- Goal: identify problems with the interrelationship between the tribal and state justice systems
- Input from tribal attorneys, social workers, state social services workers, state and local law enforcement

1992 Indian Tribal Court/ State Trial Court Forum – Action Plan

- Establish a court rule that requires state courts to afford full faith and credit to any tribal court that reciprocates.
- Support passage of the Michigan Indian Family Preservation Act comprehensive legislation written to protect and preserve Indian families in Michigan
- Support state legislation for state certification of tribal law enforcement officers trained under the Bureau of Indian Affairs
- Provide state court administrative and judicial training services to tribal courts
- Listing tribal courts in state bar journal
- Formation of Indian Law Section of the state bar

MCR 2.615 Enforcement of Tribal Court Judgments

(A) The judgments decrees, orders, warrants, subpoenas, records, and other judicial acts of a tribal court of a federally recognized Indian tribe are recognized, and have the same effect and are subject to the same procedures, defenses, and proceedings as judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts of any court of record in this state, subject to the provisions of this rule.

* * *

(C) A judgment, decree, order, warrant, subpoena, record, or other judicial act of a tribal court of a federally recognized Indian tribe that has taken the actions described in subrule (B) is presumed to be valid. . . .

All 12 Tribal Courts Adopt A Mirror Rule

- https://courts.michigan.gov/courts/tribalcourts/pages/default.aspx
- Bay Mills Recognition and Enforcement of Foreign Judgements

Michigan Bar Journal

TRIBAL COURTS

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- Bay Mills Indian Community •
- Grand Traverse Band of Ottawa and Chippewa Indians
 - Hannahville Indian Community
 - Keweenaw Bay Indian Community •
- Lac Vieux Desert Band of Lake Superior Chippewa Indians
 - Little River Band of Ottawa Indians •
 - Little Traverse Bay Bands of Odawa Indians •
- Match-E-Be-Nash-She-Wish Band of Pottawatomi (Gun Lake Tribe) \bullet
 - Nottawaseppi Huron Band of Potawatomi Indians
 - Pokagon Band of Potawatomi Indians
 - Saginaw Chippewa Indian Tribe •
 - Sault Ste. Marie Tribe of Chippewa Indians •

(Information as of January 2019)



Michigan Bar Journal

Tribal Courts



DIRECTORY OF TRIBAL COURTS

Twelve federally recognized tribes in Michigan operate their own tribal courts; in addition, there is one inter-tribal court system. Tribal courts exercise exclusive jurisdiction over misdemeanors involving Indians and concurrent jurisdiction with the federal courts over felonies involving Indians that occur on reservations. Tribal courts have broad powers in matters involving the welfare of Indian children, pursuant to the Indian Child Welfare Act, 25 USC 1901 et seq. Tribal courts also have jurisdiction over a variety of civil matters involving both Indians and non-Indians when the activities in question occur on their reservations. For further information, contact a specific court listed below or Michigan Indian Legal Services, (800) 968-6877.

BAY MILLS INDIAN COMMUNITY

Tribal Office Address:

Bay Mills Indian Community Tribal Court, 12449 W Lakeshore Dr Brimley, MI 49715, 906-248-8810/8811, FAX: 906-248-5817

Tribal Organization:

IRA government formed 1937

Constitution enacted 1937

Number of Council members—Government is by General Council composed of all tribal members 18 years of age or older. There are five members on the Executive Council who are officers of the tribe and exercise powers delegated by the General Council.

Tribal Council term of office — 2 years Number of Tribal members — 2,129

Number of voting members - 1,510 18 years and older

Judicial Organization:

The court has one trial judge, one clerk. The trial judge is elected for a six-year term. Judges may run for reelection and there is no limit on time served. The appellate court consists of three judges who are also elected for staggered terms of six years. All judges are members of the tribe.

Current Personnel:

Chief Judge: Leah Parish

Appellate Judges: Josh Hudson, Tamara Munz, and

Robert Passage
Deputy Clerk: Denise A. Parish
Administrator: Phyllis Kinney

Healing to Wellness

Case Manager: Leah Parish
Tribal Prosecutor: Carol S. Andary
Assistant Prosecutors: Kathryn L. Tiern

Kathryn L. Tierney Chad DePetro Vacant

Public Defender: Vacant Probation Officer: Terry E. Carrick

Territorial Jurisdiction:

The Tribal Court exercises civil and criminal jurisdiction over its reservation, which consists of 2,000 acres in Chippewa County, MI. Jurisdiction is also exercised regarding commercial and subsistence natural resource harvesting activities of enrolled members of the Bay Mills Indian Community within the 1836 Treaty ceded territory.

of Treasury covering on-reservation transactions. The tribe also accepts and prosecutes alleged violations of the Chippewa-Ottawa Resource Authority Treaty Fishery Regulations referred to them by the Michigan Department of Natural Resources or other state law enforcement agencies (provision is contained within).

Adoption of Court Rule 105.1—Foreign Judgments and CRT Rule 105.2 Code of Ethical Conduct for Judges, CRT Personnel, Lawyers and Lay Advocates; 105.3—Court app. attorneys/advocates; 105.4—electronic signatures; 105.5—Motions in Civil Proceedings

Lein Agreement - State of Michigan

Laws and Procedures:

Tribal Constitution

Tribal Court Code (Chapters I-XXI)

Tribal Ordinances

Tribal Hunting and Fishing Regulations

Chippewa-Ottawa Resources Authority Regulations based on U.S. District Court Consent Decree (including amendments and emergency orders)

Federal statutes, regulations, and caselaw (as may be applicable)

GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS

Tribal Court Address:

Grand Traverse Band Tribal Court, 2605 N.W. Bay Shore Drive, Peshawbestown, MI 49682 231-534-7050, Fax: 231-534-7051

Tribal Organization:

Government formed 1979

Tribal Council term of office - 4 years

IRA Constitution enacted 1988

Number of Tribal members - approximately 4,000

Number of Tribal Council members - 7

Judicial Organization:

The Tribal Judiciary is a separate, independent branch of tribal government. The Tribal Court judges (chief judge and associate judge) are appointed by the Tribal Council to four-year terms; the three Tribal Appellate Court judges are appointed by the Tribal Council to six-year terms.

Current Tribal Court December

2012 Adoption of the Michigan Indian Family Preservation Act

- In 1978, Congress enacted the Indian Child Welfare Act, 25 USC 1901-1963, (ICWA) in recognition of the fact that Indian children were being removed from their homes at a much higher rate than non-Indian children.
- ICWA is the federal law that governs the removal and out of home placement of Indian children.
- ICWA established minimum federal requirements that apply to state agency and court proceedings involving Indian children who are members, or eligible for membership, in a federally-recognized tribe.
- 2012 Public Act 565, which created the Michigan Indian Family Preservation Act (MIFPA), took effect on January 2, 2013. MIFPA codifies ICWA into state law.

Tribal State Federal Judicial Forum

- In 2014, the Michigan Supreme Court, through an administrative order, established the Michigan State Tribal Federal Judicial Forum.
- Representative from each of 12 federally recognized tribes in Michigan
- An equal number of state court judges
- Federal judiciary members
- Meet three times a year twice in person, once by phone

Tribal State Federal Judicial Forum - Charter

- Forum is created for the purpose of, "...building on the past spirit of cooperation and of creating a dialogue among the state, tribal, and federal judiciaries..."
- "The Forum shall make recommendations and implement philosophies, practices, and procedures to enhance our common responsibility to our children, our families and our communities of our sovereign nations."

State/Tribal Jurisdiction

- An Indian nation possesses in the first instance all of the powers of a sovereign state.
- Federal government has broad powers and responsibilities in Indian affairs.
- State authority in Indian affairs is limited.

Child Welfare Jurisdiction

		TRIBAL COURT	STATE COURT
/	Indian Child found or residing within a tribe's reservation (See MIFPA) for the definition of "Indian Child")	The child's tribe has exclusive jurisdiction.	State Courts have no jurisdiction.
/	Any child that is a ward of Tribal Court	Tribal Court has exclusive jurisdiction.	State Court has no jurisdiction.
	Indian Child is a resident of or domiciled on a reservation, but temporarily located off the reservation	Tribal Courts have jurisdiction concurrent with State Courts' jurisdiction in emergency removal matters.	State Courts have limited emergency jurisdiction to remove the Indian child from his or her parent or Indian custodian on an emergency basis in order to prevent imminent physical damage or harm to the child

Criminal Law Special Domestic Violence Jurisdiction

Indian victim, and perpetrator is a non-Indian who either:

- 1. resides on the reservation,
- 2. is employed by the tribe, or
- 3. is the spouse, intimate partner, dating partner of an Indian; AND
- 4. the alleged crime of domestic violence occurred within a tribe's reservation:

If "YES",
concurrent
jurisdiction
between
State, Federal
and Tribal
governments.

If "NO", State jurisdiction only if crime occurs off reservation.

Dissolution of Marriage Jurisdiction (Involves divorce, child custody, child support, division of property, and alimony proceedings related to dissolution of marriage

- Is at least one party to the proceedings a member of the tribe? AND
- 2. Has at least one party to the proceedings been a bona fide resident of the tribe jurisdiction for at least 180 days prior to the filings of the action?

If "YES",
concurrent
jurisdiction
exists
between
State and
Tribal Courts.

If "NO", State Court has exclusive jurisdiction pursuant to State law.

Recognition of Tribal/State Judgments

- Tribal Courts enforce state court Child Support orders
 - From 2007 to 2016 Pokegan Band Court collected over \$3 million in child support for the State
- Tribal Courts enforce state court debt judgments and garnishments
- Tribal Courts enforce state court subpoenas
- Warrants are recognized and enforced pursuant to crossdeputization agreements
- State courts enforce personal protection orders issued by Tribal Courts (and vice versa)

Cross Collaboration between State and Tribal Courts

- Pokegan Band did not have infrastructure to enter child support orders, access to income information, or ability to enforce child support orders against a person who lives or works outside tribal land
 - Cass County Circuit Court uses its federal funding under Title IV-D of Social Security Act to handle child support orders while tribal court handles divorce.
 - Cass County Friend of the Court will formulate and make a child support recommendation to the Pokagon Band court for its consideration. In addition, the Cass County Friend of the Court will utilize its enforcement tools to assist the Pokagon Band court with enforcement when needed.

Washtenaw County Peacemaking Court

- Established in 2013 with the support of the Michigan Supreme Court
- Training from Native American Communities
- Used in Family and Civil Court
- Hopes to create a resiliency based court model for future application to conflict resolution
- Focus on the Seven Grandfather Teachings Love, Respect, Bravery, Truth, Honesty, Humility and Wisdom

Washtenaw County Peacemaking Court - Results

- In 2016, Washtenaw County reduced children in foster care by 35% (over a two year period), as compared to a 9% reduction average statewide.
- A survey conducted in its first year revealed: 94% of cases resulted in an agreement from both parties.
- 82% agreed or strongly agreed that the result of the peacemaking meetings were fair as compared to what might have occurred in a court setting.
- 91% agreed or strongly agreed that after hearing everyone talk, the participant had a better understanding of the other person's perspective.
- 94% agreed or strongly agreed that they would recommend peacemaking to others.

Cross Collaboration between State and Tribal Courts

- Problem Solving Courts: Michigan has 188; each Tribal Court has at least one
- Some Federal and State Judges will agree to sentence tribal defendants to Tribe's drug/sobriety court
- State Court's use Tribal Court services in their problem solving courts
- Little Traverse Bay Bands of Odawa Indians Tribal Court and Emmet County Probate Court collaborate on juvenile drug court and court school initiatives
 - The court school and juvenile drug treatment court programs focus on adolescent brain development and developing treatment plans that improve the youth's functioning while addressing educational and vocational skills deficits. These plans take into account personal, emotional, and family problems.

The Waabshki-Miigwan Healing-to-Wellness Court



Sault Tribe's & Federal Court Collaboration



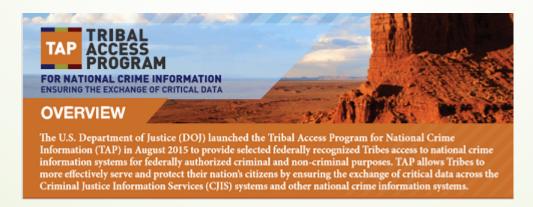


Data Sharing

Success Stories



- https://courts.michigan.gov/Administration/SCAO/Documents/Tribal-State-Fed%20Success%20Stories%2011-3_FINAL.pdf
- Tribal Access Program



Sault Tribe & Special Domestic Violence Criminal Jurisdiction

- SDVCJ Implementation
 - December 2016
 - 21 cases in Tribal Court since implementation
- Domestic Violence Court
 - Accountability & Rehabilitation
 - Bi-weekly review hearings
 - Regular essays, i.e. Tell us about how you felt about your partner when you first met, early in your relationship? How has your violence affected people in you life? What is your accountability plan? How are you incorporating it?
 - Traditional Medicine Men's Group

Courthouse Charlie



Which of the Seven Grandfathers will you apply to building cross-jurisdictional relationships?

- 1.Respect
- 2. Honesty
- 3.Truth
- 4. Humility
- 5. Wisdom
- 6.Bravery
- 7.Love

