

Tribal Court Public Defense Clinic

Ron Whitener, Assistant Professor
Director, Tribal Court Public Defense Clinic and
Assistant Director, Native American Law Center



Type of Work

Students in the Tribal Court Public Defense Clinic represent clients charged with criminal offenses by the Tulalip Tribes. In addition, clinic faculty and staff attorneys defend clients of the Squaxin Island, Port Gamble S'Klallam and Sauk-Suiattle Tribes.

Clinic Numbers

Quarters offered: 3 (Autumn, Winter and Spring)
Credits: 4 per quarter
Students: 16
Summer Interns: 7
Cases: 150 cases (misdemeanor and felony)
Average # of charges: 2 per case (approximately 300)

Notable Student Accomplishments

- Completed legal research, pre-trial and trial memoranda on clients' criminal cases ranging from thefts to assaults and possession of drugs with intent to deliver.
- Tried one jury trial, argued ten contested motions and prepared 11 additional cases for trial.
- Litigated issues of first impression in Tulalip Tribal Court, including admissibility of hearsay evidence in domestic violence cases and double jeopardy.
- Studied Navajo justice system during fifth annual week-long trip to Navajo Nation with clinic faculty member Molly Cohan:
 - Observed court and met with Navajo judges and court staff;
 - Participated in half-day meeting concerning the Navajo Nation Peacemaking Program;
 - Hiked into Canyon de Chelly over two days with traditional Navajo guides to study interrelationships among Navajo law, culture, and history.
- Researched and analyzed the legislative history and policy implications of the Tribal Law and Order Act of 2010.
 - David Howard, ('11), analyzed the constitutional standards for appointed counsel in tribal courts pursuant to new standards required by the Act.

- Afghan Scholar enrolled in Clinic completed comparison of the public defense system of Tulalip Tribes in Washington State with that of Afghanistan.

Other Notable Clinic Accomplishments

- Served as primary public defender for Tulalip Tribes as well as Squaxin Island, Port Gamble S'Klallam and Sauk-Suiattle Tribes.
- Clinic faculty and staff attorneys represented clients year around, assisted by work study students and summer interns.
- Faculty participated in the Tulalip Law and Justice Committee, conducted analysis of the recent Tribal Law and Order Act, and performed justice system outreach and collaboration with stakeholders.
- In collaboration with the Asian Law Center's Afghan Legal Educators program, three Afghan law professors who were enrolled in the UW's Asian Law LLM program:
 - Enrolled as students in the full year (three quarter) Tribal Court Public Defense Clinic;
 - Participated in weekly seminar on clinical teaching methods with Assistant Clinic Director Molly Cohan;
 - Participated in Navajo trip, with one of the scholars conducting extensive research about Navajo Peacemaking and comparing it with traditional Afghan dispute resolution processes;
 - Returned to Afghanistan, with several working to establish legal clinics in their home institutions.
- Collaborated with the Asian Law Center on a two-day conference concerning customary law in Afghanistan with perspectives from Native America.



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Faculty Update

- Ron Whitener, Clinic Director:

- UW Law '94
- Squaxin Island Tribe
- Principal investigator for a MacArthur Foundation grant to the Clinic and the Native American Law Center to study tribal juvenile justice in Washington State and conduct planning for reform efforts in tribal courts. Initiated a project to provide representation of rural tribal juveniles via web video-conferencing. Began development of a model tribal juvenile delinquency, truancy and at-risk youth code.
- Taught American Indian Law in fall of 2010.
- Taught Mental Health Law in the spring of 2011.
- Taught Northwest Native American history and American Indian law related to jurisdiction, civil rights, and federal and tribal trust relations in the Clinic's fall teaching quarter.
- Consulted with a variety of tribal and Federal agencies on issues related to tribal court practice, pluralistic court systems, tribal public defense, and juvenile justice.
- Presented at the International Perspectives on Indigent Defense workshop at the Institute of Justice in Washington, D.C., on indigenous perspectives regarding indigent defense. Also spoke at the annual meeting of the Institute of Justice on current issues in tribal justice.

- Brenda Williams, Supervising Attorney:

- UW Law '97
- Served as member of the Board of Governors of the Washington State Bar Association.
- Served as member of the Washington State Supreme Court's Minority and Justice Commission.
- Presented on issues related to



tribal and criminal practice at 2010 UW Law Indian Law Symposium and "Nuts and Bolts of Criminal Law" at the Washington statewide Diversity Conference.

- Molly Cohan, Supervising Attorney:

- UW Law '77
- Named one of the "Top Lawyers" of 2010 by Seattle Met Magazine.
- Presented on Ethical Issues in Tribal Court Practice, Clinical Legal Education, the Tribal Law and Order Act of 2010, and other criminal and tribal court issues to various audiences.
- Continued to work closely with the Afghan Legal Educators Program and supervised three Afghan Scholars involved in the Clinic.
- Designed and taught a seminar for the Afghan Legal Educators participating in the Clinic on the implementation and development of clinical legal education.
- Planned and led the annual study trip to the Navajo Nation.
- Participated in ongoing court development Projects, including the Tulalip Law and Justice Committee, and the Conflict Counsel and Local Rules subcommittees.
- Assisted in the development and implementation of formal training for conflict and pro bono attorneys practicing in Tulalip Tribal Court.
- Provided court advocacy training for our partnering tribes, including a joint training for public defender and prosecutor interns.
- Continued as a member of the planning committee for the annual Washington State Bar Association (WSBA) Access to Justice Conference.



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Faculty Update (Continued)

- Chori Folkman, Affiliated Faculty:

- University of California, Berkeley, 2006
- Cherokee Tribes
- Continued her work with the Tribal Parent Advocacy Project representing parents and children in child welfare proceedings in Tulalip Tribal Court.
- Managed a federal grant through the Department of Justice for the Tulalip Foundation to provide civil legal representation in the Tulalip Tribal Court.
- Served as Northwest Inter-Tribal Court Representative to the Washington State Supreme Court Commission on Children in Foster Care, and as an executive committee member of WSBA Juvenile Law Section and the Alliance for Equal Justice Youth Law Task Force.
- Presented at the WSBA Indian Law Section Conference in May 2011 entitled, "Representing Native Youth: Using a Youth's Stated Interest to Uphold Tribal Sovereignty."
- Testified on tribal juvenile justice and child welfare issues to the Indian Law and Order Commission, September, 2011.
- Participated in ongoing court development projects at the Tulalip Tribal Court, including the Law and Justice Committee, Courthouse Safety Committee, and oversight of the Tulalip Conflict Counsel grant.



- Mary Rodriguez, Staff Attorney:

- UW Law 2008
- Continued her work as the primary public defender at the Squaxin, Port Gamble S'Klallam, and Sauk-Suiattle Tribes and assisted with case coverage at the Tulalip Tribal Court.
- Pursued her interests in comparative tribal criminal law, tribal juvenile justice, and tribal Healing to Wellness Court.

