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Ohkay Owingeh Pueblo Tribal Court Handbook (2021)

Tribal Law Journal Staff

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Tribal Law Journal

University of New Mexico School of Law

Tribal Court Handbook

OHKAY OWINGEH TRIBAL COURT

NAME OF TRIBE: OHKAY OWINGEH TRIBAL COURT

Introduction and Note to Practitioners:

Tribal Court Handbook information contained herein was provided by a representative of the tribal court in response to a questionnaire provided by the Tribal Law Journal. Often information contained within a Tribal Court Handbook will change between Tribal Law Journal updates. Readers are encouraged to utilize the following information as a starting place for information about a tribal court and to verify that information is accurate.

Part One: TRIBAL GOVERNMENT AND GENERAL INFORMATION

The purpose of this Section is to provide certain basic information about your Tribal Court and judicial system. Anyone practicing in Tribal Court will need to know where the Court is located, how it is organized, and who to contact for more information.

1. Contact Persons and Location of Tribal Court:

Name of Tribal Court	Ohkay Owingeh Tribal Court		
Contact Person Name	Patricia Bancroft		
Title	Court Manager		
Address	Physical: 227 Popay Avenue Ohkay Owingeh, NM 87566 Mailing: P.O. Box 1128 Ohkay Owingeh, NM 87566		
Phone	505-852-4475 ext. 120	Fax	?
E-mail	patricia.bancroft@ohkay.org		

2. Name and address of the Chief Judge[s] of the Tribal Court:

Name	Trace Rabern
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Title	Chief Judge		
Address	Physical: 227 Popay Avenue Ohkay Owingeh, NM 87566 Mailing: P.O. Box 1128 Ohkay Owingeh, NM 87566		
Phone	505-852-4475	Fax	?
E-mail	judge@ohkay.org		

3. Driving directions to Tribal Court:

4 miles north of Espanola off of Highway 68 onto NM 74 in Ohkay Owingeh, located across the Tribal Administration Building

4. On what is your tribal government based? (Please check one and briefly describe in box)

- An IRA or OIWA constitution
- A non-IRA constitution
- A non-constitutional organizational document (*e.g. tribal legislation*)
- A traditional system (*please describe*)
- Other (*please describe*)

5. Please indicate which organic documents are possessed by the Tribe, and from whom copies are available:

Tribal Document	Available?	Obtain Copy From:
1. Tribal Constitution	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
2. Bill of Rights	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
3. Organizational Statute	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
4. Law and Order Code	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Request from Tribal Court
5. Children's Code	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Request from Tribal Court

6. Please indicate where your tribal jurisdiction is exercised:

- Within undisputed, clearly established reservation boundaries
- Generally within reservation boundaries, with a few outlying parcels of Indian country
(*Please describe the nature of these parcels: e.g. gaming location; purchased land not used for gaming; land remaining from formerly larger reservation, etc.*)
- Within Indian country (or dependent Indian community); there are no reservation boundaries
- Please describe disputes regarding the tribe's territorial jurisdiction, including boundaries; non-Indian owned fee land; dependent Indian community status; state or county roads; or any other:

7. Regular Court Staff:

Name	Title	Phone Number	e-mail address
Trace Rabern	Chief Judge	505-852-4475	judge@ohkay.org
Patricia Bancroft	Court Manage	505-852-4475 ext. 120	patricia.bancroft@ohkay.org
Rita Aquino	Court Clerk	505-852-4475 ext. 119	rita.aquino@ohkay.org
Regina Salazar	Court Clerk	505-852-4475 ext. 121	regina.salazar@ohkay.org

Patricia Bancroft	Probation Officer	505-852-4475	patricia.bancroft@ohkay.org

8. Tribal Court Organization:

Other branches of the Court (if any):

Other Courts in Tribal Court system are checked below:

- Appellate Court (Tribal Council or SWITCA)
- Supreme Court
- Lower courts with different subject-matter jurisdiction
- Other: _____
- Other: _____
- Other: _____

9. Number of judges on the Tribal Court: (Please provide list of names, titles, and contact information for each judge)

Judge Positions	# of Full-time Positions	# of Part-time Positions	# of Pro-tem Positions
Tribal Court Judge	1		
Specialized Court Judges			
Appellate Court Judges			
Other: Conflict Judges			

10. Tribal Prosecutor for the Court :

Name			
Title			
Address			
Phone			
E-mail			

11. Tribal Justice System Staff: (Please provide list of names, titles, and contact information for each position)

Tribal Justice System Position	# of Full-time Positions	# of Part-time Positions	# of Pro-tem Positions
Court Administrators/Clerks	3		
Probation Officers	1		
Prosecutors			
Public Defenders			
Bailiffs			
Juvenile Officers			
Other:			

12. Alternative Dispute Resolution and Diversion Programs:

- Does your tribe use Alternative Dispute Resolution (ADR) in the judicial system? Yes No
If yes, please indicate below which ADR methods you use:

- Traditional Methods Mediation Settlement Facilitation
 Arbitration Diversion Programs Other: Wellness Court

Please describe:

- Is there additional written material available which describes your tribe's ADR program(s)?
 Yes No If yes, who should be contacted to obtain a copy:

Name	Patricia Bancroft		
Title	Court Manager		
Address	Physical: 227 Popay Avenue Ohkay Owingeh, NM 87566 Mailing: P.O. Box 1128 Ohkay Owingeh, NM 87566		
Phone	505-852-4475	Fax	
E-mail	patricia.bancroft@ohkay.org		

Part Two: TRIBAL BAR PRACTICE

(Please attach additional information for each question if available)

Issue		Comments
1. Are there special requirements to be permitted to practice in tribal court?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Annual Practicing Fee of \$150.00 and Proof of Good Standing Recognition through the NM State Bar.
2. Are there requirements regarding knowledge of tribal culture or language?	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
3. Are advocates who do not have law degrees or are not members of a state bar permitted to practice in tribal court? Please describe requirements.	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Must pay fee of \$150
4. Do the same requirements apply for state-licensed attorneys?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	
5. Does your tribe have a tribal bar examination? If yes, please provide details concerning requirements, how often the exam is administered and how to get more information about being admitted to the tribal bar.	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
6. Can an otherwise licensed attorney who is not a member of the tribal bar be admitted for a single case? If yes, how?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Practicing Fee of \$150.00 and Proof of Good Standing Recognition through the NM State Bar.
7. Can/must an otherwise licensed attorney who is not a member of the tribal bar associate with a member	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Practicing Fee of \$150.00 and Proof of Good Standing Recognition through the NM State Bar.

of the tribal bar on a single case? If yes, how?		
8. Does the tribal bar have a Continuing Legal Education requirement? If yes, please provide details.	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
9. What is the total number of members of the tribal bar?		About 10-15 active members of the Tribal Bar.

13. Other requirements for a lawyer to practice in Tribal Court:

14. Others that are allowed in practice in Tribal Court:

Part Three: TRIBAL COURT RULES AND PROCEDURE

The purpose of this Section is to provide specific information regarding the rules and procedures necessary to practice in Tribal Court.

15. Tribal Court's working hours:

Monday-Friday 8am-5pm

16. Language(s) used in Tribal Court:

English, Spanish, and Tewa

17. Interpreters are available: yes no

Name			
Title			
Address			
Phone			
E-mail			

18. Tribal court filing fees:

Non-tribal member: \$40

Tribal member: \$40

Corporation/Business/Agency: \$80

19. Tribal Court scheduling or docket practices where specific days or weeks are reserved:

Monday-Thursday Civil and Criminal

Fridays Traffic

20. Rules of conduct, or etiquette, or rules of ethics, either written or implied, which are required to practice in Tribal Court:

21. The following written rules are available for Tribal Court (Check all that apply):

<input checked="" type="checkbox"/> Civil Procedure	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> Others:
<input checked="" type="checkbox"/> Criminal Procedure	<input checked="" type="checkbox"/> Appellate Procedure	
<input checked="" type="checkbox"/> Domestic Relations	<input type="checkbox"/> Alternative Dispute Resolution	

22. These rules can be obtained by contacting:

Name	Patricia Bancroft		
Title	Court Manager		
Address	Physical: 227 Popay Avenue Ohkay Owingeh, NM 87566 Mailing: P.O. Box 1128 Ohkay Owingeh, NM 87566		
Phone	505-852-4475 ext. 120		
E-mail	patricia.bancroft@ohkay.org		

23. To obtain more information on unwritten Tribal Court rules procedures, contact:

Name	Patricia Bancroft		
Title	Court Manager		
Address	Physical: 227 Popay Avenue Ohkay Owingeh, NM 87566 Mailing: P.O. Box 1128 Ohkay Owingeh, NM 87566		
Phone	505-852-4475 ext. 120		
E-mail	patricia.bancroft@ohkay.org		

24. Tribal Court forms can be obtained from:

Is a list of tribal court and related forms available? yes no If yes, please provide a copy.

Name	Patricia Bancroft		
Title	Court Manager		
Address	Physical: 227 Popay Avenue Ohkay Owingeh, NM 87566 Mailing: P.O. Box 1128 Ohkay Owingeh, NM 87566		
Phone	505-852-4475 ext. 120		
E-mail	patricia.bancroft@ohkay.org		

25. Jury trials are available for the following types of cases:

Criminal Torts – Injury Traffic Other: Civil Matters - taxation case
 Other: _____ Other: _____

26. Appeals are available for the following types of cases:

Criminal Torts – Injury Traffic
 Other: Review limited to legal error or conflicts within tribal custom and tradition only

27. Tribal Court decisions and opinions are written oral.

If written, copies of decisions and opinions are available from:

Name	Patricia Bancroft		
Title	Court Manager		
Address	Physical: 227 Popay Avenue Ohkay Owingeh, NM 87566 Mailing: P.O. Box 1128 Ohkay Owingeh, NM 87566		
Phone	505-852-4475 ext. 120		
E-mail	patricia.bancroft@ohkay.org		

28. Trial proceedings or hearings are recorded transcribed not recorded.

If recorded or transcribed, proceedings or hearings are available from:

Name	Patricia Bancroft		
Title	Court Manager		
Address	Physical: 227 Popay Avenue Ohkay Owingeh, NM 87566 Mailing: P.O. Box 1128 Ohkay Owingeh, NM 87566		
Phone	505-852-4475 ext. 120		
E-mail	patricia.bancroft@ohkay.org		

Part Four: THE JURISDICTION OF TRIBAL COURT

The purpose of this Section is to provide information regarding the law that applies to cases heard in Tribal Court.

29. Does the tribe exercise jurisdiction over members off-reservation?

yes no If yes, please specify subject matter and circumstances (check all that apply):

- Indian Child Welfare Act
- Hunting, Fishing or Subsistence
- Other: Family law, Domestic Violence
- Other: Traditional Matters

30. Does a significant number of non-member Indians live within the tribe's jurisdiction?

yes no Comments:

31. Do a significant number of non-Indians visit tribal lands on a regular basis?

yes no If yes, please indicate the types of visits (check all that apply):

- Gaming
- Resort
- Smokeshop
- Tourism
- Hunting/Fishing
- Other: Gas Stations and Post Office
- Transients on Interstate Highway
- Transients on Other Highways

32. Are there problems presented by these visitors, such as increased traffic violations, hunting or wood cutting violations?

yes no If yes, please describe these problems and indicate whether disputes are presently settled in tribal court or other forum (please specify forum, such as state court):
Traffic violations are civil cases for non-Indians and will be settled in tribal court.

33. Are there federal laws or treaty provisions that *specifically* limit *your* tribe's jurisdiction over non-members or non-Indians (as opposed to limitations on all tribes)?

yes no If yes, please indicate the specific law or provision and the limitation:

Federal Statute: _____ over

Non-Indians Non-member Indians

Treaty Provision: _____ over

Non-Indians Non-member Indians

34. Over which groups of persons does your tribal constitution or traditional system permit jurisdiction?

Tribal Constitution

- Tribal Members Only
- All persons, civil
- All persons, criminal
- All Indians, civil
- All Indians, criminal

Traditional System

- Tribal Members Only
- All persons, civil
- All persons, criminal
- All Indians, civil
- All Indians, criminal

35. Has the tribe, by tribal legislation, limited its jurisdiction to members?

yes no If yes, is the jurisdiction General over all actions, or as to specific matters (please specify the subject matters):