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Zia Pueblo Tribal Court Handbook (2010)

Tribal Law Journal Staff

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ZIA PUEBLO TRIBAL COURT

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NAME OF TRIBE: PUEBLO OF ZIA

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.

Applicable to Part 7, no. 50, federal legislation: Indian Pueblo Land Act Amendment, Pub. L. No. 109-133, § 20, 119 Stat. 2573 (2005).

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	Zia Tribal Court		
Contact Person Name & Title	Pablita C. Pino, Court Clerk		
Address	135 Capitol Square Dr. Zia Pueblo, NM 87053		
Phone	(505) 867-3304	Fax	(505) 867-3308
E-mail			

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

Name	Current Governor (Marcellus Medina) and Lt. Governor (Ben Shije)		
Title	Governor and Lt. Governor		
Address	135 Capitol Square Dr. Zia Pueblo, NM 87053		
Phone	(505) 867-3304	Fax	(505) 867-3308
E-mail			

3. Driving directions to Tribal Court (attach a map if needed):

From Albuquerque, head north on I-25, exit at Bernalillo, head west 18 miles on SR-44. The office is located within the tribal offices.

4. What is the official name of your tribe or federally recognized organization?

Pueblo of Zia

5. 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)

The court system is a contemporary court system that utilizes unwritten traditional laws.

6. 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.	<input type="checkbox"/> yes <input type="checkbox"/> no	
4.	<input type="checkbox"/> yes <input type="checkbox"/> no	
5.	<input type="checkbox"/> yes <input type="checkbox"/> no	

7. 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:

8. Regular Court Staff:

Name	Title	Phone Number	e-mail address
Pablita C. Pino	Court Clerk	(505) 867-3304	
Robert Medina	Judge	(505) 867-3304	rfmedina@ziapueblo.org
Antonio Medina	Probation Officer	(505) 867-3304	

9. Tribal Court Organization:

Other branches of the Court (if any):

None

Other Courts in Tribal Court system are checked below:

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

10. 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
Trial Court Judges	1		
Specialized Court Judges			
Appellate Court Judges			
Other: Tribal Governor (for traditional purposes)	1		

11. Tribal Prosecutor for the Court:

Name	None		
Title			
Address			
Phone		Fax	
E-mail			

12. Tribal Government staff person to be contacted for more information regarding Tribal Government:

Name	Peter Pino		
Title	Tribal Administrator		
Address	135 Capitol Square Dr. Zia Pueblo, NM 87053		
Phone	(505) 867-3304	Fax	(505) 867-3304
E-mail			

13. 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	1		
Probation Officers	1		
Prosecutors			
Public Defenders			

Bailiffs			
Juvenile Officers			
Other:			
Other:			

14. Use of Attorneys: (Please indicate the number of full and part time attorneys or law school graduates your tribal justice system currently utilizes – enter 0 for positions which are not held by attorneys or law school graduates)

Tribal Justice System Position	# of Full-time Positions	# of Part-time Positions	# of Pro-tem Positions
Judges who are licensed attorneys	1		
Judges who are law school graduates, but not licensed in any state			
Prosecutors who are licensed attorneys			
Prosecutors who are law school graduates, but not licensed in any state			
Public defenders who are licensed attorneys			
Public defenders who are law school graduates but not licensed in any state			

15. 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: _____

Please describe:

The traditional methods are used for membership, land disputes and inheritance.

- 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			
Title			
Address			
Phone		Fax	
E-mail			

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	Member of the State Bar; approval by the Tribal Council to practice.
2. Are there requirements regarding knowledge of tribal culture or language:	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Must be culturally competent. Some plaintiffs speak in the Keresan language, but Court is conducted in English. We do not provide interpreters.
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	Decided on a case-by-case basis; apply to the Court.
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	Apply with the Court.
7. Can/must an otherwise licensed attorney who is not a member of the tribal bar associate with a member of the tribal bar on a single case? If yes, how?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Apply with the Court.
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	N/A
9. What is the total number of members of the tribal bar?		None
10. Of the total number of members of the tribal bar, how many are licensed attorneys admitted to practice in a state?	1	

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

Swear an oath to uphold the tribal laws and customs.

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

None

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.

18. Tribal Court’s working hours:

Monday through Friday, 8-5.

19. Language(s) used in Tribal Court:

Keresan (sometimes) and English

20. Interpreters are available: yes no

Contact:

Name	n/a		
Title			
Address			
Phone		Fax	
E-mail			

21. Tribal court filing fees:

\$10.00 (civil), \$50.00 (criminal)

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

Tuesdays and Thursdays

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

We follow the standard code of ethics.

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

<input type="checkbox"/> Civil Procedure	<input type="checkbox"/> Evidence	<input checked="" type="checkbox"/> Others: The rules are only in draft form.
<input type="checkbox"/> Criminal Procedure	<input type="checkbox"/> Appellate Procedure	
<input type="checkbox"/> Domestic Relations	<input type="checkbox"/> Alternative Dispute Resolution	

25. These rules can be obtained by contacting:

Name	Robert Medina		
Title	Judge		
Address	135 Capitol Square Dr. Zia Pueblo, NM 87503		
Phone	(505) 867-3304	Fax	(505) 867-3308
E-mail	rmedina@ziapueblo.org		

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

Name	Robert Medina		
Title	Judge		
Address	135 Capitol Square Dr. Zia Pueblo, NM 87053		
Phone	(505) 867-3304	Fax	(505) 867-3308
E-mail	rmedina@ziapueblo.org		

27. 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	Pablita C. Pino		
Title	Court Clerk		
Address	135 Capitol Sq. Dr. Zia Pueblo, NM 87053		
Phone	(505) 867-3304	Fax	(505) 867-3308
E-mail			

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

Criminal Torts – Injury Traffic Other: _____

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

Criminal Torts – Injury Traffic Other: _____

30. Tribal Court decisions and opinions are written oral.

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

Name	Pablita C. Pino		
Title	Court Clerk		
Address	135 Capitol Sq. Dr. Zia Pueblo, NM 87053		
Phone	(505) 867-3304	Fax	(505) 867-3308

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

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

Name	Pablita C. Pino		
Title	Court Clerk		
Address	135 Capitol Sq. Dr. Zia Pueblo, NM 87053		
Phone	(505) 867-3304	Fax	(505) 867-3308
E-mail			

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.

32. Information regarding a written Tribal Code can be obtained from:

Name	Robert Medina		
Title	Judge		
Address	135 Capitol Sq. Dr. Zia Pueblo, NM 87053		
Phone	(505) 867-3304	Fax	(505) 867-3308
E-mail	rmedina@ziapueblo.org		

33. Does the tribe or the court have a definition of “non-member Indian” for jurisdictional or service purposes?

yes no If yes, please indicate what that definition is, and describe whether there are different definitions for different purposes (e.g., tribal services or criminal jurisdiction).

A non-member Indian is a person who is a member or eligible for membership in a federally recognized tribe.

34. 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: State Juvenile Proceedings (CYFD) _____
- Other: _____

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

yes no Comments:

All residents of the Pueblo are enrolled members.

36. 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):

- | | | |
|------------------------------------|---|---|
| <input type="checkbox"/> Gaming | <input checked="" type="checkbox"/> Tourism | <input type="checkbox"/> Transients on Interstate Highway |
| <input type="checkbox"/> Resort | <input checked="" type="checkbox"/> Hunting/Fishing | <input type="checkbox"/> Transients on Other Highways |
| <input type="checkbox"/> Smokeshop | <input checked="" type="checkbox"/> Other: <u>Filming</u> | |

37. 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):

Increased traffic on a major State Highway.

38. 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

39. 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

40. 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):

Part Five: TRIBAL CODES

The purpose of this Section is to provide information regarding any Tribal Codes that apply to practice in Tribal Court.

41. Does your tribe's Constitution or Tribal Code contain a Bill of Rights? yes no
 If yes, are copies available?

42. Does your tribe have a written code? yes no

If yes, the code is based on:

- written customary law
- a modern (Western-style) code
- Both customary law and modern (Western-style) code

43. Is a copy of the tribal code readily available to any person who wants it? yes no

If yes, where can a copy be obtained?

Name: _____ n/a _____ Phone: _____ Cost: \$ _____

If no, please specify reason:

44. Has the tribal code ever been comprehensively codified? yes no

If yes, when was the last time the tribal codified?

Date: _____

45. Please indicate which of the following are covered in your tribal code (check all that apply):

<p>FAMILY LAW (Domestic Relations)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Marriage <input type="checkbox"/> Divorce <input type="checkbox"/> Child Support and Enforcement <input type="checkbox"/> Visitation <input type="checkbox"/> Paternity <input type="checkbox"/> Guardianship <input type="checkbox"/> Abuse and Neglect <input type="checkbox"/> Out of home placement <input type="checkbox"/> Children in Need of Supervision (CHINS) <input type="checkbox"/> Adoption (including ICWA) <input type="checkbox"/> Probate (Estate distributions) <input type="checkbox"/> Domestic Violence <input type="checkbox"/> Elder Protection <p><input type="checkbox"/> Other: _____</p> <p><input type="checkbox"/> Other: _____</p> <p>JUVENILE JUSTICE</p> <ul style="list-style-type: none"> <input type="checkbox"/> Status offenses (curfew, truancy, underage possession of alcohol, etc.) <input type="checkbox"/> Non-status offenses (criminal) <p><input type="checkbox"/> Other: _____</p>	<p>HOUSING AND LAND USE</p> <ul style="list-style-type: none"> <input type="checkbox"/> Evictions <input type="checkbox"/> Housing authority actions <input type="checkbox"/> Trespass <input type="checkbox"/> Land assignments <input type="checkbox"/> Land use <input type="checkbox"/> Landlord-tenant <input type="checkbox"/> Grazing/Farming <p><input type="checkbox"/> Other: _____</p> <p><input type="checkbox"/> Other: _____</p> <p>TRIBAL AFFAIRS</p> <ul style="list-style-type: none"> <input type="checkbox"/> Enrollment <input type="checkbox"/> TERO and other employment rights <input type="checkbox"/> Elections <input type="checkbox"/> Voter Registration <input type="checkbox"/> Eligibility to run for office <input type="checkbox"/> Recounts <input type="checkbox"/> Campaign Financing <input type="checkbox"/> Other election disputes <input type="checkbox"/> Appeals <p><input type="checkbox"/> Other: _____</p>
---	--

ENVIRONMENTAL

- Housing
- Building
- Sanitation
- Solid Waste
- Water
- Air
- Noise

- Other: _____

- Other: _____

CIVIL COMMITMENTS

- Mental Health
- Substance Abuse
- Juvenile commitment
- Physical disability
- Developmentally disabled (severely retarded) or other disorder (stroke, persistent vegetative state) disability

- Other: _____

- Other: _____

TRAFFIC

- DWI
- Speeding
- Reckless Operation
- Driver's Licenses
- Vehicle Licenses
- Insurance requirements

- Other: _____

- Other: _____

COMMERCIAL TRANSACTIONS

- Contracts
- Consumer protection
- Collection of debts

- Other: _____

- Other: _____

TORTS

- Personal Injury
- Defamation, libel, slander

- Other: _____

- Other: _____

CRIMINAL LAW

- Assault and battery
- Harassment and stalking
- Kidnapping
- Trespass
- Property damage
- Larceny
- Extortion
- Embezzlement
- Receiving stolen property
- Illegal kickbacks
- Marital and familial offenses (e.g. bigamy, unlawful cohabitation, incest)
- Sexual offenses (other than children as victims)
- Alcohol and other intoxicants (including selling, possession, bootlegging, trafficking, distributing, etc.)
- Homicide (murder & lesser offenses involving the death of a human being)
- Crimes against children & dependents, including sex crimes
- Bribery
- Perjury and false affirmations
- Malicious prosecution
- Conspiracy to commit a crime
- Worthless checks
- Welfare fraud
- Securities fraud
- Racketeering
- Election fraud or interfering with elections
- Computer crimes (e.g. computer access with intent to defraud or embezzle, unauthorized computer use)
- Controlled substances (e.g. drug selling, possession, distribution, trafficking, etc.)
- Crimes against public peace (e.g. disorderly conduct, unlawful assembly, rioting)
- Interference with law enforcement (e.g. resisting, evading, obstruction, assault, battery, refusing to aid, concealing identity, aiding a felon, escape from jail, assisting escape, bringing contraband into jail)
- Official misconduct (e.g. demanding or receiving illegal fees, making false vouchers, paying or receiving tribal money for services not provided)

- Other: _____

- Other: _____

- Other: _____

<p>COURT PROCEDURES</p> <p><input type="checkbox"/> Criminal Court procedures (e.g. requirements for filing a complaint, time limits for hearings and motions, format for documents)</p> <p><input type="checkbox"/> Civil Court procedures (e.g. requirements for filing a petition or complaint, time limits for hearings and motions, format for documents)</p> <p><input type="checkbox"/> Juvenile or Children’s Court procedures (e.g. requirements for filing a petition, time limits for hearings and motions, format for documents)</p> <p><input type="checkbox"/> Appellate Court procedures (e.g. requirements for allowing appeals, time limits, notice of appeal)</p> <p><input type="checkbox"/> Administrative Court procedures (e.g. from decisions made by tribal departments such as housing, personnel, land use & realty, environmental, membership, or elections board)</p> <p><input type="checkbox"/> Procedures for appeals from council (legislative) decisions.</p> <p><input type="checkbox"/> Code of Judicial or Professional Responsibility</p> <p><input type="checkbox"/> Other: _____</p> <p><input type="checkbox"/> Other: _____</p>	<p>OTHER CODE PROVISIONS (Please specify):</p>
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46. Has your tribe waived its immunity from suit in court? **yes** **no**

If no, go to question 46.

If yes, please indicate which of the following applies:

General Waiver

Limited Waiver (check all that apply)

For tort claims against the tribe

For civil rights claims against the tribe

For specific business activities

As to special tribal public agencies (e.g. housing authority)

As to tribally-owned business enterprises

Other: _____

Specific to:

Tribal Court

Federal Court

State Court

47. Is the civil jurisdiction of your tribe limited by any federal statute? **yes** **no**

If yes, please indicate the statute:

Part Six: INTERGOVERNMENTAL RELATIONS

48. Does your tribe, pueblo, or village have any agreements to **RECEIVE** services **from** or to use facilities of a state, county, municipality, or other tribe? yes no

If yes, please complete the following chart:

Type of Service	Type of Agreement	Agreement is With:
Cross Deputization	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Shelter Care	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Treatment/Counseling	<input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	Five Sandoval Indian Pueblo Behavioral Health
Detention Facilities	<input checked="" type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	Sandoval County Detention Center
Correction Facilities	<input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	Regional Correctional Center
<i>Other (Please Describe)</i>	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input checked="" type="checkbox"/> Informal agreements	Sandoval County DWI Program

49. Does your tribe, pueblo, or village have any agreements to **PROVIDE** services or the use of facilities **TO** a state, county, municipality, or other tribe? yes no

If yes, please complete the following chart:

Type of Service	Type of Agreement	Agreement is With:
Cross Deputization	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Shelter Care	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Treatment/Counseling	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Detention Facilities	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Correction Facilities	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
<i>Other (Please Describe)</i>	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	

Part Seven: STATE & OTHER GOVERNMENTAL JURISDICTION

The purpose of this Section is to provide information regarding jurisdiction that has been granted by your tribe to any state or other governmental entity.

50. Has any state government been granted jurisdiction over any portion of your reservation by treaty, federal legislation, or tribal legislation? yes no

If yes, jurisdiction was granted by (Check all that apply, and describe briefly):

<input type="checkbox"/> Treaty: (Please specify and describe)	
<input type="checkbox"/> Federal Legislation (P.L. 83-280 or other – please specify and describe)	
<input type="checkbox"/> Tribal Legislation (Please specify and describe)	

51. Is state jurisdiction limited? yes no

If yes, jurisdiction is limited to:

<input checked="" type="checkbox"/> Persons: (Please specify and describe)	Non-Indian v. Non-Indian
<input checked="" type="checkbox"/> Subject Matter: (Please specify and describe)	Criminal Act

52. Does your tribe exercise concurrent jurisdiction with the state? yes no

If yes, concurrent jurisdiction is over:

<input type="checkbox"/> Persons: (Please specify and describe)	
<input type="checkbox"/> Subject Matter: (Please specify and describe)	

53. Does your tribe receive services from the state and municipal governments, law enforcement and court systems under state jurisdiction? yes no

If yes, the services provided are the result of:

- Agreement or Contract Federal Court order or settlement