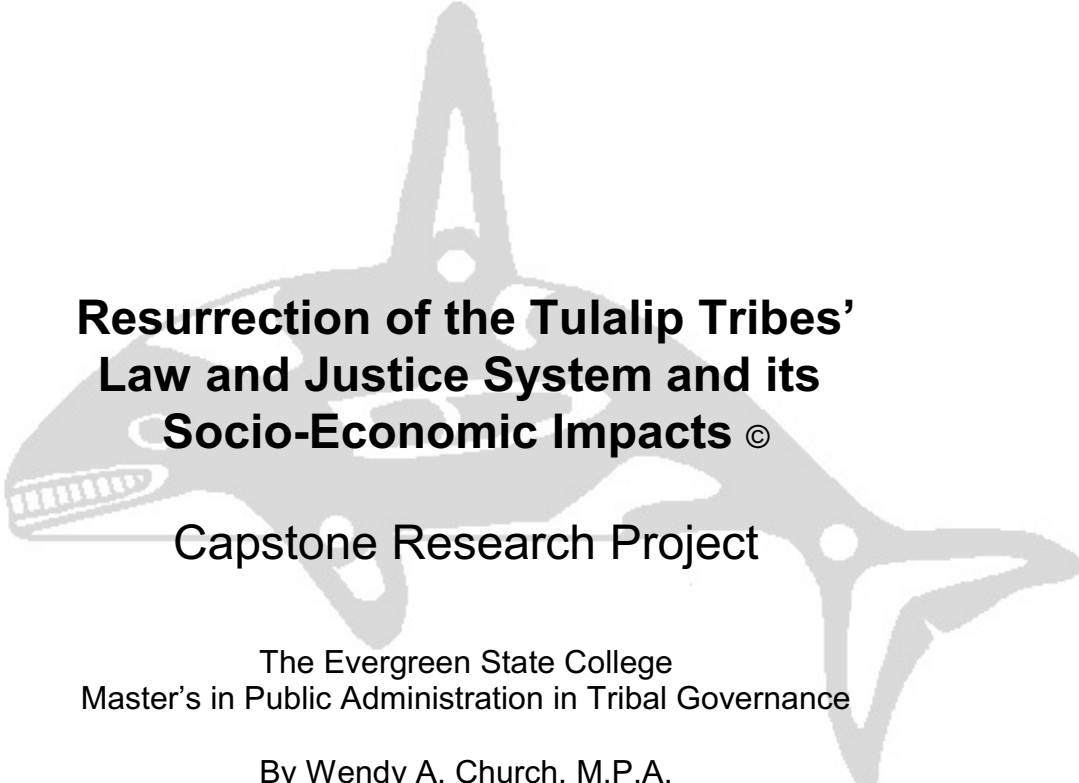


*****Findings and conclusions of the research reported here are those of the author and do not necessarily reflect the official position or policies of the Tulalip Tribes.**



**Resurrection of the Tulalip Tribes'
Law and Justice System and its
Socio-Economic Impacts ©**

Capstone Research Project

The Evergreen State College
Master's in Public Administration in Tribal Governance

By Wendy A. Church, M.P.A.
Office of the Tulalip Tribes Reservation Attorney, Administrator
Northwest Intertribal Court System Alternate Board Member
Tulalip Law and Justice Committee Member

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I. ABSTRACT

My premise is that since the Tulalip Tribes acceptance of retrocession that the Tribes' overall socio-economic structure has changed for the better. How has the retroceding of state jurisdiction to the United States and Tulalip Tribes affected the Tulalip Tribal community? Preliminary research indicates that retrocession at the Tribes has engendered major social, cultural, legal, and economic changes.

This paper will discuss the history and process of retrocession, the Tribes' decisions as to why they decided to pursue retrocession, the overall structure and growth of the Tribes' law and justice system, and some of the socio-economic impacts experienced since retrocession as well as a final analysis and recommendations.

Further, this Capstone Research Project will contribute to the Tulalip Tribal government—the Board of Directors, policymakers, and researchers because there does not exist a comprehensive historical overview and documentation of the Tribes' law and justice system. As such, this project will serve to provide a narrative account of the Tribes' law and justice system for the Tribes and its membership to emphasize why continued support of tribal law and justice is necessary. Further, this research may also serve as an invaluable reference guide for high school students to learn about the Tribes' law and justice system which may inspire an interest in those students to consider careers in the field of law and justice with the Tulalip Tribes.

II. INTRODUCTION

Who are the Tulalip Tribes? The Tulalip Tribes' is a federally-recognized Indian Tribe located on the Tulalip Reservation in the mid-Puget Sound area adjacent on the east by Interstate 5 and the city of Marysville. The Tribes is a confederation of the Snohomish, Snoqualmie, and Skykomish Tribes, and other tribes and bands signatory to the Treaty of Point Elliott, January 22, 1855.

The Reservation's exterior boundaries enclose a land-base of 22,000 acres, over which sixty-percent is in federal trust status. The Reservation was reserved for the use and benefit of Indian tribes and bands signatory to the Treaty of Point Elliott, January 22, 1855. Its boundaries were established by the 1855 Treaty and Executive Order of President U.S. Grant which was signed December 23, 1873.

The Board of Directors, is the legislative body of the Tulalip Tribes, under the authority of the Constitution and Bylaws of the Tribes (Art. III, Sec. 1) as adopted and approved January 18, 1936, in accordance with Section 16 of the Indian Reorganization Act (IRA). The Board consists of seven members who are elected to serve three-year terms.

Although no formal language exists in the constitution designating an executive branch, the Board of Directors has the authority to employ a General Manager to manage government operations. The General Manager in turn, oversees executive staff who are tasked with the management of the day-to-day operations of the executive arm of the Tribal government.

Moreover, the Tulalip Tribes' Constitution and Bylaws was first approved by the Assistant Commissioner of Indian Affairs and Acting Secretary of the Interior, January

24, 1936, under the IRA, also known as the Wheeler-Howard Act (25 U.S.C.A. § 461). The constitution was established to provide for:

“A more perfect tribal organization, promote the general welfare, encourage educational progress, conserve and develop lands and resources, and secure [to the Tribes] the posterity of **the power to exercise certain rights of home rule** not inconsistent with Federal, State and local laws”.

Thus, the judicial arm of the Tribal government has provisions under the Constitution which provides for law and justice on the reservation under Article VI, Sec. 1.k., in which to: “... promulgate and enforce ordinances, which are subject to review by the Secretary of the Interior, governing the conduct of members of the Tribes, and providing for the maintenance of law and order and the administration of justice by establishing a reservation court and defining its duties and powers.

The Tribes’ Law and Order Code, the first ordinance enacted by the Tribes, was first approved by the U.S. Department of Interior, August 6, 1938, to provide “adequate legal machinery for the enforcement of law and order for the Tulalip Indian community and civil redress for which no adequate Federal or State provision is otherwise made. The code would be amended several more times before and after retrocession. Currently the Criminal Law and Order code exists under Tulalip Tribal Ordinance TTO 49.

III. LAW ENFORCEMENT ON THE TULALIP RESERVATION 1958 to 2001

The state of law enforcement on the Reservation seemed lacking and ineffective prior to retrocession. Although the Sheriff was legally obligated to police the Reservation, policing on the Reservation was sparse – for two reasons.

First, the County claimed that resources were lacking because no tax revenues were derived from lands within the Reservation. It is difficult to accept this lack of resource justification because during this period much of the Reservation had been acquired by non-Indians. Even if this claim were accurate, the County was legally obligated to provide law enforcement under federal and state law.

The second reason for the lack of County effort may be the real reason for the failure of the County to provide any substantial law enforcement effort at Tulalip. Through the period from 1958 until the year 2000, the Tribal community refused to accept county / state law enforcement on the Reservation. After almost forty years of State authority under PL 83-280, R.C.W. 37.12 et. seq., the Indian community still believed and acted as if the County and State authorities lacked jurisdiction. The White law enforcement force was treated as an occupier and not a protector of the community. The Indian people at Tulalip continued to believe that the State officers lacked authority and refused to cooperate with them. The Tribal government itself lacked any confidence in a State and County government which was almost always in the position of acting as the enemy of Indian rights, resources, causes and people. Thus, the Tribal government seldom turned to County or State authorities to assist in resolving internal Tribal issues or in providing protection for Tribal people and assets.

To do so would have been considered consorting with the enemy.

Tulalip was failing to provide the most basic of services to its community— police services, that which keeps the community safe in its person and in its property. Tulalip had only a fisheries patrol that enforced fisheries ordinances and regulations. The Tulalip code did not contain criminal offenses, with the exception of three or four. A few criminal procedures existed, but there were no substantive laws.

One attempt to find a solution was a contractual relationship between the Tribes and Snohomish County. In the 1980's, the Tribes and the BIA agreed to provide sixty-thousand dollars per year of federal self-determination act contracted funds to the Snohomish County Sheriff. These funds were used to provide one County deputy and a patrol vehicle for the Reservation. The officer was stationed on the Reservation in a small facility provided by the Tribes. The County patrol vehicle had a small Orca whale— the Tribes' symbol, posted on each front fender. In later years as funds from the Tribes' gaming operations become available, more Tribal funds were directed towards the County Sheriff in an attempt to increase police services on the Reservation.

These efforts did bring more attention from the administration in the County Sheriff's office, but not much more effective policing. Forty hours per week did not adequately cover the one-hundred sixty-eight hours in the living week of every Reservation resident. In addition, the Sheriff made no effort to overcome the basic problem of lack of trust between the Indian community and an all White police force operating out of a Reservation border town.

By 1994, the Tulalip Tribes had developed itself as a social, cultural, and economic institution with new-found wealth through several of its business enterprises, i.e., bingo, liquor store, leasing of land to private land-owners, the Boeing lease, and opening of the first casino in the state. Because the Tribes now had positive flow revenues available from its business enterprises, issues of misappropriation of funds by tribal employees began to arise. However, on the law and justice side, Tulalip was not developing.

When Tulalip was confronted with internal legal problems, the Tribes began paying substantial sums of money to outside legal consultants like JAMS (mediation and arbitration services) in employment cases. No one thought to use the tribal court, which would have been a tenth of the cost of using JAMS. It wasn't long before the Tribes realized that they needed an alternative solution to this problem.

Perhaps most influential of using and developing the tribal court for disputes arose out of the Tribes' enacting of a personnel policy (TTO § 84). This ordinance allowed employees a tribal court hearing to appeal disciplinary actions taken against them. Still, problems remained, despite the adoption of the new ordinance. There were some managers that were still getting used to the personnel policies, and at times, did not understand how the law worked. The court became flooded with cases and for the first time Tulalip had an active judge which meant that the court found itself in session fairly regularly using the Board room to adjudicate cases. Soon, the Board established a small court building to hear cases near the administration building.

By this time, Tulalip had gotten used to this judicial arm of the Tribes, and supplemented the Northwest Intertribal Court System's (NICS) budget by \$25 to \$35 thousand dollars. It was sometime in 1975 that the Tribes had contracted with NICS for

judicial and prosecutorial services, although there was little need at the time to use those services, other than for the eviction of H.U.D. (U.S. Housing and Urban Development) housing tenants, collections, and fishing issues for tribal members fishing in violation of tribal regulations. The NICS prosecutor would charge tribal members in tribal court to dismiss state claims – which prevented people from getting serious state sentences. Once tribal court prosecution began, the state would drop the state charges. [1]

IV. RETROCESSION

A clear indication of whether a tribal community is sovereign or not is its exercise of the “police power.” Communities that lack sovereignty are not entitled by law to exercise this power.

The first sign of a sovereign is its police power. Police power is the power of the governing body to adopt such laws and regulations to prevent the commission of fraud and crimes, and secure and promote the comfort, safety, morals, health and prosperity of its citizens by preserving public order, and by preventing a conflict of rights. Police power is essential to the very existence of civil society.

Cohen’s Handbook of Federal Indian Law summarizes the right of sovereign Indian governments to exercise police power in this way.

“The present rights of tribes to govern their members and territories flows from a preexisting sovereignty limited, but not abolished, by their inclusion within the territorial bounds of the United States. Tribal powers of self-government today are recognized by the Constitution, legislation, treaties, judicial decisions, and administrative practice. Neither the passage of time nor apparent assimilation of the Indians can be interpreted as diminishing or abandoning a tribe’s status as a self-governing entity. The tribes began their relationship with the federal government with the sovereign powers of independent nations.” (Cohen at P. 231-32; 1982 ed.)

As such, a sovereign, the Tulalip Tribes (Tribes), in 1994 began the process of applying for retrocession to take back jurisdiction on tribal lands due to the ever-increasing urbanization and population growth of the reservation [2].

Retrocession is a legal term used to describe the process of returning State jurisdiction obtained under P.L. 280 to the United States. Generally speaking, federal Indian laws and treaties pre-empt state laws in Indian country so that without a specific federal statute delegating jurisdiction over areas of Indian country to a state, jurisdiction within Indian country remains exclusively in federal and tribal hands.

Prior to the 1950's, the federal government and tribal government had concurrent jurisdiction over reservation Indians. Washington exercised no jurisdiction over reservation Indians, their land or resources on the Reservation. See *State ex rel Adams v. Superior Court*, 57 Wash 2d 181 (1960). *In re Colwash*, 57 Wash 2d 196 (1960).

Congress granted to the State the opportunity to take jurisdiction on the Reservation in 1953 by Public Law 83-280. Under PL 83-280 and state law, RCW 37.12, the Tulalip Board of Directors requested State jurisdiction. The State accepted jurisdiction on the Tulalip Reservation, July 7, 1958. *Tonasket v. State of Washington*,

84 Wn. 2nd 164 (1974) F.N.2. After this time, the state and tribal government had concurrent jurisdiction, although the Tribes was not exercising most of its tribal jurisdiction.

With a limited exception that occurred in 1974 as a result of Judge George Boldt's decision in *U.S. v. Washington*, finding that tribal governments which operated fisheries law enforcement and tribal courts could exercise treaty fishing rights free of State control, federal and tribal jurisdiction was significantly reduced over Tulalip Indians and their lands during the period 1958 to 2001.

V. LOBBYING

In 1968, Congress enacted the Indian Civil Rights Act. 25 USC § 1302 et. seq. Included in ICRA was a provision allowing the United States to accept "retrocession" of jurisdiction from the states.

In 1996, in accordance with the Tribes' wishes to operate its own police department, along with the Tulalip Reservations Attorney's Office [3], the Chairman of the Tribes, Stanley G. Jones, Sr., lobbied the Washington State legislature to return jurisdiction to the Tribes (Exhibit C). This was the first step of many steps in acquiring tribal jurisdiction (Exhibit F). It took approximately one year to get bills allowing the retrocession to be drafted and submitted in both houses of the state legislature. The Chairman made several visits to Olympia during that time to support the bills and eventually a favorable vote was obtained. Once the bill was signed by Governor Lowry, (Exhibits A, B), as aforementioned, the Reservation Attorney's Office began the process of petitioning the Secretary of the Interior for retrocession (Exhibits D, L).

It was a lengthy process that did not go without some problems. For the most part, no tribe had petitioned the Interior for some time which meant that there were few in the Interior accustomed to the process of retrocession. In addition, when the retrocession was finally approved, the Interior published the wrong date— which needed to be immediately corrected lest it cause major jurisdictional issues with the county law enforcement on the Reservation (Exhibits E, J, K, and M).

Also during this time, the Tribes found out that the U.S. Attorney General's office in Seattle was not supportive of the Tribes request for retrocession because it would add responsibilities to that office and other federal law enforcement agencies. The issue came to a head when the U.S. Attorney for the Seattle region and her staff met with the Tulalip Board of Directors in the spring of 2000. The reason for the meeting was to discuss the concerns that both had with oversized fireworks being sold at the annual 4th of July "Boom City" event on the Reservation. It was explained to the U.S. Attorney that the Tribes' small police force did not have the resources to effectively cope with the problem, but if the Tribes could obtain retrocession, this would allow for an expanded police force to provide adequate law enforcement. Eventually, the U.S. Attorney warmed to the idea and sent a letter of support to the Attorney General. This contract between the Tribes and the local U.S. Attorney eventually resulted in a letter of support for Tulalip Retrocession being sent from the Justice Department to the Interior Department.

With Governor Lowry's Proclamation and the letter of support from the Justice,

Tulalip staff was able to meet with top officials in the Bureau of Indian Affairs, Washington D.C. office. At this meeting, Bureau officials promised action on the retrocession. That action took one year.

VI. PREPARATION FOR RETROCESSION

In preparation for Retrocession, the Tribes informed Snohomish County Executive Bob Drewel of the impending retrocession on the Reservation. Mr. Drewel set up a team from his office and solicited the participation of the County Attorney and Sheriff Rick Bart to confront the questions raised by Retrocession. The Tribes delegated a team that included Chief Goss, Tulalip Government Affairs Director, John McCoy, and Reservation Attorney, Michael Taylor to deal with the County and Tribal concerns. This group met for six months every Tuesday morning prior to regular working hours to work out an agreement between the County and the Tribes regarding retrocession. At times, officials from the U.S. Attorney, FBI, SnoCap, the Denny Youth Center, beda? chelh (Tulalip ICW), etc., joined this group to discuss issues arising in a specific area of concern. This series of meetings produced agreements entered into by the Tribes and Snohomish County (Exhibits H, I), regarding how Retrocession would be accomplished at Tulalip.

Confident that details of retrocession had been worked out on who had jurisdiction over who (Indians versus non-Indians), and what lands (fee simple or trust lands)– the County and the Tribes in November 2001, entered into a 5-year Cooperative Law Enforcement Agreement. The agreement is a cooperative approach to law enforcement on the Reservation to enhance public safety for all persons and property for members of the Tribes and its residents. More specifically, the agreement gives respective police agencies authority to arrest in criminal and civil traffic infraction offenses.

I. Chief of Police:

In order to focus on law enforcement, the Board of Directors in 1996, appointed a Police Chief, the late Francis Sheldon, who already occupied the position of a supervisor of the Fisheries Patrol. Mr. Sheldon, a longtime employee of the Tribes, was a skilled administrator, but his lack of law enforcement experience and some experiences in his early life placed him in a situation where it would be difficult to be accepted by the local law enforcement community. Thus, two years after Mr. Sheldon the chief position, a committee was formed, that included Chief Sheldon, Mr. Thomas Gobin (a tribal member, who had retired as Chief of Police from the small city of Arlington roughly 20 miles from Tulalip), and tribal staff. After a search, Chief Jay Goss, a Blackfeet tribal member, and a law enforcement officer with 30 years of tribal, federal, municipal and military law enforcement expertise was selected to build from the ground up, a police department (Exhibit G).

The Chief has ultimate responsibility for and command over Tribal Police Services. The Chief has a management position and is supervised by the Board of Directors. The Chief regularly meets with the Board and Tulalip community to discuss the police program. Moreover, the Chief is responsible for having command over all

tribal police officers and police staff, instructs, trains, and advises tribal police officers in their functions, duties and responsibilities for the efficient maintenance of law and order on the Reservation, and insures cooperation with other law enforcement agencies.

ii. The Northwest Intertribal Court System:

The Northwest Intertribal Court System (NICS) was established in 1976 in response to the provisions of the federal court decision in *United States v. Washington* 384 F. Supp. 312 (1974) allowing tribes with fisheries law enforcement and judicial systems to conduct treaty fisheries without state control. [4] In 1974, Tulalip and many other treaty fishing tribes lacked law and justice systems. The establishment of NICS, melding together the sovereignties of a dozen tribes, satisfied the Federal Court requirement of a tribal court system to handle cases arising from the activities of treaty fishers and tribal fisheries enforcement agencies.

Tulalip, as stated above, under-utilized NICS services for some twenty years. However, as the Tulalip government grew, NICS began to play a much larger role in the Tulalip community and government. Today NICS administers the Tulalip Tribal Courts, the Appellate Court, the Tulalip Prosecutor's Office and some probation services under a contract and budget supplied by the Tribes. Tulalip appoints one member of the NICS Board of Directors and is the largest jurisdiction within the NICS system.

iii. Foundations of the Tulalip Tribal Court:

Since the establishment of the Northwest Intertribal Court System (NICS) in the late 1970's, the Tulalip Tribes has been a member of the consortium. In the early 1980's, Tulalip adopted an ordinance which substantially revised and modernized criminal and civil procedure in the Tulalip Court. [5] However, as aforementioned, up until the mid-1990's, the Tribal government did not use its court system and did not provide ordinances that would allow its members to use the Tribal court for common personal issues, like dissolutions, adoptions, contract enforcement, land and property disputes, etc. The only business of the Court seemed to be for the occasional fisheries violations and housing evictions. Also, the court clerk position was very much part-time.

Moreover, with no substantive criminal code and a non-existent police department, no infrastructure was available to provide a basis for either internal protection of tribal government resources or suppression of criminal behavior by Native American residents or visitors to the Reservation.

In the early days of the court, there was no courtroom. Court was presided over and held at the home of Carl C. Jones, Jr., a Tribal member and logger by trade in the mid-1950's up until 1967. Judge Jones also held Shaker Church meetings in his home. In an interview with Commandeer Hank Williams, tribal member, he recalled in the early days that he and two others were sentenced with disturbing the peace because of a loud car exhaust pipe. Judge Jones sentenced the trio with a \$25 dollar fine and 2-days of work at the Tribal cemetery. The Tribes also had a game warden, Billy Willy, who issued citations for fisheries violations. Additionally, Tribal member, Billy Dunbar acted as a pro se lawyer for Tribal members charged with minor offenses.

Sometime later, when fisheries or housing eviction disputes arose, these cases were heard in the Tribes' Board room. However, with the Tribes growing caseload, the

Board designated one of its small buildings as a court. After Retrocession, it became absolutely necessary for the Tribes to re-evaluate the accommodations and conditions of its court.

There were several problems with the existing building. First it was not large enough to house jury trials, nor secure enough for domestic violence and child dependency hearings, or custody disputes. Also, the court's limited space was impeding fair trials for tribal members because it only had one table for the defense and prosecutor to sit at where private attorney-client communications could be heard by the other. The Board elected to relocate the court to a much larger facility known as the South Lot which was retrofitted to provide adequate space for two courtrooms, a court clerk administrator's office, clerk's offices, judicial chambers, a jury conference room, two prosecutor's office, and holding rooms for offenders. The court is comparative of any district courthouse and is a source of pride for the Tribes. Nevertheless, the Tribes have *tentative* plans to build a new law and justice court facility sometime in the future.

iv. Appellate Court:

Under the Tulalip law and order code, which has provisions for an appellate court, the appellate court had legally always existed, but was an ad hoc court—meaning it existed in law but not in fact. Appellate judges were appointed whenever Tulalip had an appeal. Appellate judges that oversaw Tulalip cases often didn't know about Indian law or people, the Tribes became dissatisfied and felt the appellate court was inadequate. Thus, the Tribes' sought and found and appointed a regular panel of qualified Indian people who were knowledgeable of Indian law. The appellate judges, under contract with NICS, are paid by the Tulalip Tribes for their services when needed at Tulalip. Currently, there are seven appellate justices, all who are from federally recognized tribes, or are licensed lawyers in the State of Washington with long experience in federal Indian law and tribal government.

Additionally, the Tribes formed the Tulalip Law and Justice Committee which first met June 11, 2001. The Committee is comprised of those that work in any component of the Tribes law and justice system, including the judges, chief of police, prosecutor, defense counsel, parent advocates, and other pertinent staff. The Committee provides a forum to address current issues and coordinate law and justice services to the membership.

VII. MODERN PROGRAMS

I. Healing-to-Wellness (Drug) Court:

In response to the growing problems of drug-related crimes, the Tribes established a Wellness Court, also known as "drug court." Typically, defendants must be charged with possessing or purchasing drugs; must not have a history of violent crime, or drug-trafficking arrest, or more than two previous non-drug felony conviction, as well as the prosecutor's consent to diversion. Program participants must have regular drug tests and return to court an average of once a month for a review of their progress. Moreover, participants also receive counseling, educational courses, and vocational services. The purpose of the Wellness Court is to approach crimes

committed by the offender under the influence of drugs or alcohol in a holistic manner that supports and encourages traditional practices rather than punitively while ensuring that the offender is still accountable. Further, it is the hope that the Wellness Court will reduce recidivism.

ii. Prosecutorial Services:

The Tribes' prosecutor, contracted under NICS, works closely with tribal law enforcement officers and tribal officials to ensure adequate representation for the Tribes. Currently, the Tribes have two full-time prosecutors whose duties include the prosecution of all tribal criminal laws; prosecution of hunting, fishing, and shellfishing matters, whether civil or criminal in nature. They also handle housing collections and evictions as well as provide counsel to the Tribes' gaming agency in license termination and suspension matters. The Tribes, in the near future, also hope to place child welfare and child support under the domain of the prosecutor.

iii. Defense Counsel:

Tulalip sought a unique approach to the problem of providing defense counsel for tribal members. It should be noted that under the Indian Civil Rights Act of 1968 (U.S.C. § 1302-02(6)), tribes, due to economic reasons generally are not required to provide for defense counsel. The main reasons are because of the concerns of costs and the difficulty in arranging such representation given the circumstances of poverty and distances involved, that many reservations still experience. To require tribes to pay for the costs of defense would be an undue burden. However, in 2003, the Tribes developed an institutional relationship with the University of Washington School of Law Native American Law Center for the Tribal Court Criminal Defense Clinic, which was designed to provide representation to low-income Tulalip tribal members charged with crimes on the reservation. The Clinic is funded through Tulalip Appendix X casino-derived funds and first began taking cases in July of 2003.

iv. Corrections:

With the expansion of the police department and the court system, Tulalip found it important to address jail space needs. In 1994, the Tribes signed an Interlocal Agreement for Jail Services with Snohomish County for the purpose of confining Tribal prisoners in the County jail in which the Tribes pays for this space. When the federal government still had jurisdiction of the Tribes in the early days, the Tribes had its own jail cell (circa 1920's)— enough for two people to occupy, mostly it was designated for tribal members who had committed minor offenses. Otherwise, for more serious offenses, offenders were jailed in the Marysville jail. The jail was only open for an estimated five years. [6]

However, this year (2006), Tulalip along with Lummi, Nooksack, Suik-Suaittle, Stillaguamish, Swinomish and the Upper Skagit tribes developed a partnership with Snohomish County to develop a facility in which to provide incarceration services to the offender population. The facility is located in Arlington, Washington, roughly 20 miles from Tulalip, and is known as the Northwest Tribal Restorative Justice Center which can house up to 180 inmates. The cooperating agencies' goal is to reduce jail

overcrowding and recidivism, reduce court workload, reduce drug and alcohol abuse, provide offenders with the ability to acquire an education, provide the offender the ability to gainful employment, and provide the opportunity to obtain their driver's license or at the very least, their suspended driver's license. Collectively, the tribes hope to have the one-year sentencing facility open sometime in late 2006. [7]

Another innovative solution to incarceration the Tribes' have undertaken, is the opportunity that G.P.S. provides through Vicap is allowing offenders to serve their sentences at home, while still allowing the offender to work or go to school. The ankle bracelet allows the Tribes to track the offender anywhere on the Reservation and also can detect whether or not the offender has abused alcohol. Participants must not be charged with serious felony charges, domestic abuse, and/or assault to be eligible for the program. Further, the offender must pay for the costs to utilize these services.

v. The Court Since Retrocession:

The Tulalip Court system has experienced more than triple the case load since the Tribes' civil and criminal jurisdiction from the State in 2001 (see chart).

**Tulalip Tribal Court
Activity Report for the Period October through December 2005
(Most recent statistics available as of April 26, 2006)**

Types of Cases	Filed	Disposed	Total Pending as of January 2006
Criminal Involving Alcohol	9	27	27
Criminal Involving Drugs	6	13	47
Criminal Involving Domestic Violence	15	16	34
Criminal Involving Fishing	1	0	5
Criminal General (not in above categories)	46	57	134
Criminal Traffic	68	35	145
TOTAL CRIMINAL CASES	145	148	411
Admission to Practice (not pending)	6	6	0
Civil Anti-Harassment	3	3	13
Civil Child Custody	8	5	110
Civil Divorce	8	7	73
Civil Employment	6	0	52
Civil Gaming	4	4	6
Civil General	44	26	331

Civil Guardianship	20	3	122
Civil Paternity	1	14	6
Civil Restraining Order	16	4	110
Civil Youth-In-Need-of-Care	17	14	155
TOTAL CIVIL CASES	143	77	1025
Total for Quarter	289	230	1430
**Other categories not listed are included in the totals			
[Chart courtesy of the Tulalip Tribal Court Judges; the Hon. Judge Bass & Hon. Teresa Pouley]			

vi. Juvenile Jurisdiction:

With the exception of very serious crimes committed by Native American juveniles, the retrocession of jurisdiction on the trust and restricted lands of the Reservation will not affect the arrest, prosecution, or detention of Native American juveniles within the Reservation. Pursuant to RCW 37.12.010, State/County jurisdiction is retained over Native American juvenile offenders both on and off the trust and restricted lands of the Reservation. While the Tribes retains concurrent jurisdiction over Native American juvenile offenders, the Tribes has determined that juvenile arrest, prosecution, and corrections are most effectively left with the state/county authorities. Thus, they have at this time chosen not to assume juvenile jurisdiction. Juveniles are detained at the Denny Youth Center in Everett, Washington, five-miles from Tulalip. However, NICS has offered to discuss and make preliminary strategic plans should the Tribes ever decide to take over juvenile jurisdiction.

However, the Tribes have considered reaching some type of agreement to have a juvenile probation officer at the Denny Youth Center for tribal member juveniles who are not given the time and attention needed to monitor their case. Part of the problem is that, due to high caseload, there is no advocacy for these children.

vii. Child Support:

At the Tribes, there exists a federal program for child support enforcement from the state to the Tribes. Tulalip is applying for the authority and funding to take responsibility for child support enforcement with regard to Tulalip children. Should the Tribes take on this program, this will add a very substantial number of cases to the docket at Tribal court. The Tribes are anticipating 400 to 600 cases annually which will mean more judges and court personnel will need to be added at the Court. The Tribes expect this to take place within one to two years.

viii. Tulalip Gaming Agency:

Tulalip Gaming Agency is a law enforcement agency that is responsible for

making sure that Tulalip gaming operations follow tribal and federal law in the compact agreement between Washington State and the Tribes. It employs two dozen employees and uses the Tribal court to resolve its enforcement issues. It has authority to suspend or terminate the licenses of gaming employees and vendors when suspension or termination action is taken by the gaming agency, or the vendor has appeal rights to the tribal court. Over the last 6-8 years, TGA has been a major user of Tribal court services to resolve licensing disputes.

VIII. LITERATURE REVIEW

The Rights of Indians and Tribes (Stephen L. Pevar, 2002) briefly discusses retrocession under the section Public Law 280. Washington is one of ten states that sought to acquire partial jurisdiction under P.L. 280. According to Pevar, the extent of Washington's jurisdiction includes all fee patent land within reservations, while jurisdiction on trust land is limited, unless the tribes requests full jurisdiction which encompasses adoptions, dependent children, juvenile delinquency, compulsory school attendance, public assistance, domestic relations, mental illness, and operation of motor vehicles on public roads. At the time of publication, the book states that several tribes requested state jurisdiction, including Tulalip, which is incorrect, because the Tribes actually had petitioned the Department of Interior for retrocession some time before this and was officially granted retrocession, November 21, 2001.

Indian Law in a Nutshell (William Canby, Jr., 2004), talks about retrocession of jurisdiction by a state to the federal government. One of the criticisms, according to Canby, in regards Public Law 280, is that Congress in 1968 amended the law to provide a mechanism for states to return jurisdiction to the federal government. "Notably absent from the retrocession provision is any mechanism for requiring tribal consent or permitting tribal initiative for retrocession. The original option is entirely that of the retroceding state, although the Secretary of the Interior may exercise discretion in accepting or rejecting the proposed retrocession." The tribes so affected by the process must lobby or use "political means" directed at the state or the Secretary to influence or convey their wishes.

Tribal Courts: Providers of Justice and Protectors of Sovereignty (Professor F. Pommersheim, 1995) refers to tribal courts as frontline institutions that "confront issues of American Indian self-determination and sovereignty." Concurrently, he says, they also provide reliable and equitable adjudication in a wide array of matters that must be confronted. Moreover, tribal courts also "constitute a key entity for advancing and protecting the rights of self-government".

Tulalip Tribal Court Evaluation (Hon. J. Smith & G. Galanda, Esq., 2004), discusses a study of the Tribes' judicial system to identify areas where greater efficiency might be achieved and provide suggestions for the overall organization of the court's operations.

Additionally, there are a number of government documents (attached as Exhibits A through N) that provide information on the process of retrocession, such as the proclamation from Governor Mike Lowry, Tulalip Tribal resolutions, letters from the

Secretary of Interior, and federal register publications.

IX. METHODOLOGY

These objectives of this paper will be accomplished using several methodological tools, including archival information, government documents and records, interviews of key Tulalip Tribes' law and justice personnel. Additionally, a review of relevant literature, scholarly, and press will be conducted. My unit of analysis is all of the components of the Tulalip Tribes' law and justice system, including the Tulalip Tribal Court and Tulalip Police Department. Data will be both about the comparison of different programs, as well as synthesizing data gathered through qualitative research of different individuals, who again, work within the Tribes' justice system. Findings and conclusions of the research reported here are those of the author and do not necessarily reflect the official position or policies of the Tulalip Tribes.

X. PLANNING SECTION

My presentation plan is to complete a final report that will be delivered to both faculty members in the MPA Tribal Governance program, as well as be archived at the Tulalip Tribes, and available to all Board of Directors, before the final due date. There are no direct costs related to this research, thus, there is no reportable budget. In addition, I will complete a public presentation at the appointed time that will demonstrate the findings of my project, so designated June 2, 2006.

XI. ANALYSIS

I. Social Impacts

While not all of the social changes in the Tulalip community can be attributed to the Tribes' developing tribal law and justice system, a substantial portion of these changes can be directly tied to it through retrocession and the establishment of the police force and development of the tribal court. Some of the changes are directly linked to Tulalip as a growing economic force, and being able to provide services through funds generated through its business enterprises. However, on the law and justice side, the subjective views of the Tribes' judges, chief of police and social services staff provide substantive insight into the changes that have occurred since retrocession.

Chief Judge Gary Bass, a Colville Tribal member, has at least 40 years as a private attorney in Seattle, and was also a King County Court Commissioner, and held various positions in Indian affairs (i.e., Seattle Indian Center, Seattle Indian Health Board, Director of the Colville Tribal Enterprise Corporation). At Tulalip, he handles the majority of criminal cases. Judge Bass views law enforcement prior to retrocession as "ineffective and the county's lack of interest in enforcing the law on the [reservation], and also tribal people not trusting the county. This left the Tribes in a state of lawlessness."

Moreover, he is keenly aware of the growing drug problem on the reservation which, again, he attributes to the lack of police patrol prior to retrocession. “By not enforcing the law [county sheriff], it allowed drugs to get a hold here. If we had our own police and court system earlier, it might have had a bigger impact on the problem of drugs.”

Because the Tribes has a Healing-to-Wellness Court (Drug Court), more people are getting help, by having more access to social service programs to address problems of drug and alcohol abuse, employment issues, parenting issues, and domestic violence problems. “Retrocession has given the Tribe more programs for tribal members to participate in more willingly, such as family services, AA, NA, and beda chelh. The Anglo court system is more punitive, whereas our court is more rehabilitative. Retrocession has allowed us to adopt a healing-to-wellness philosophy in keeping with the tradition of the Tribes.”

Judge Theresa Pouley, a Colville Tribal member, (handles child dependency cases), believes the changes have been “radical, although they are hard to measure” since retrocession. “The social impact is figuring out how to make kids from repeating their mistakes, it’s helping families recover from intergenerational abuse, i.e., drug and alcohol problems, physical and sexual abuse, and neglect.” The court has been instrumental in teaching people that they can make different choices. Most of the dependency cases she has seen are of neglect (rather than physical abuse) where there is no parental supervision, houses are dirty, there is no food in the house, or the children are missing school. Most alarming, says Pouley, is that many of the new cases they are seeing is a result of methamphetamine use by the parents. The legal difference she says, is that the court is “watching” the parents to insure compliance with court orders that mandate mental health counseling, monitoring, family services, and site-visits.

The difference at Tulalip in these types of cases is that prior to retrocession, they were heard in state courts. The superior courts, whose goal was to get tribal children adopted within a year, is quite contradictory to Tulalip’s philosophy of getting the family healthy and re-uniting children with their parents. Many children were lost due to these cases being tried in the state courts.

A large part of the problem, prior to retrocession, was that people in the community didn’t feel safe– the reservation seemed to be a “zone of lawlessness,” she says, congruent with Judge Bass’ observations. Further, when the county had jurisdiction, they were often unresponsive to calls for assistance. In one instance, Judge Pouley relates that a woman was raped but there was little anyone could do for her in terms of law enforcement. In other instances of drugs and assault crimes, no one was being held accountable. “Things have changed to protect the victims and children, there is accountability now, getting the [community] well has been a fundamental change here.” Not only was the county unresponsive to calls, Judge Pouley believes that Tulalip people were treated poorly in the State system— “tribal members were skeptical of the court in the beginning, but they are starting to see the court as credible, somewhere they can come to resolve their problems.”

Moreover, the changes in the community may not be seen for years to come, there is a huge difference in that the state courts have been in operation for more than

115 years, while tribal court systems didn't really come into being until some 30 years ago here in Washington State (due to the Boldt decision).

On the general civil side of the court, the judges have found that more tribal members are willing to utilize the court to get their legal affairs in order, i.e., child custody, harassment, paternity cases and dissolutions. Tribal members were reluctant to use state court, although there is concurrent jurisdiction to hear these disputes.

In an interview with Virginia Carpenter, the Tulalip Tribes Elder and Senior Director, shared her views on elder abuse on the Reservation and her observations of the police department's lack of response. Part of the problem, says Mrs. Carpenter, is when elders are abused by their families, whether it is financial exploitation, drug dealing from their homes, and alcohol abuse, is that the police department, because no elder's abuse code exists, is that they "do not take seriously" the reports of abuse. Because elders at the Tribes receive a \$1,000 a month senior per capita, pensions, and social security, an elder's abuse code could address the problem of financial abuse, i.e., family members taking advantage of elders receiving these payments by taking their money.

A wide range of services are offered at the Tribes' Family Services Department. Gayle Jones, Manager has lived on the Reservation for 32 years, is a Tribal member, and has a Bachelor's degree in Human Services & Education. Ms. Jones offered great insight into the problems in the community and the role of the police and courts in addressing those problems in conjunction with Family Services. The department is involved in many social issues, such as drug and alcohol abuse, sexual perpetrators, domestic violence, suicide, and work with many other tribal agencies, including the health clinic, the Tribes' Indian child welfare services (beda? chelh), housing, and schools. Her job also brings her into close contact with the police department, and the court.

"We meet every week with the judges on the Healing-to-Wellness Court (drug court) and have made policies together" to insure that clients are receiving the help needed. "Some people need this motivation and the court is there to help them, although they may not think that." She says that since retrocession, that their caseload has increased substantially. "It's a good thing, people are being held [accountable] while getting treatment."

"We meet with the court on a regular basis, the judges will call us, they have genuine concern for the people." It hasn't been the same with the county, she says, in that contact is very limited. She is very pleased that communication with the court and police has been on a regular basis since retrocession. "I know we're making a difference out here— probably the most important part of treatment is the spiritual part. It's finding peace within yourself."

From a tribal member perspective, tribal elder Ray Moses (former Tribal historian), believes the community is much safer since retrocession. "I'm glad we have a law and justice system, it's important". Previous to the Tribes active police and court system, he says, there was conflict with the county in coming on the reservation. He also feels comfortable with the judges being appointed through the Northwest Intertribal Court System because there is a separation of powers and the judges are not related to tribal members.

Twelve years with the Tribes' Indian Child Welfare department, known in Lushootseed, as beda? chelh, has brought Cherol Fryberg, Presenting Officer, to the conclusion that without the Tribes active law and justice system, things would be much worse in the area of child protective services.

"Prior to [retrocession], when we had to pick up children from their homes, we would call the county and have to wait for 6 to 7 hours for them to respond. Meanwhile, the parents are getting more [anxious] and the kids are crying and panicking knowing we are taking their children. Now that we have our own police department, it's safer for case managers to pick up children, it's been easier for us to remove kids from unsafe situations, the police act as our witnesses in court, and when officers are related to the families in these situations, they are more likely to report their findings—the mentality is changing out here, now it's 'helping us help ourselves.'"

Cherol says the process of picking up children is much kinder. "The Court has definitely impacted our kids. Judge Bass, as an Indian person, with his stature, and education level, can relate to these kids in court. He doesn't talk down to them like they are dumb, but encourages them to engage in sports... things that helped him in his own [challenges]. Judge Pouley, she says, who is raising two teenage children, also can empathize with families. "The court has made things a thousand times better. It helps people, through intervention, change the direction their going."

"I think that having our own police and court system is one of the best things the Tribes have done. That's the difference between the Anglo-system and here is that there is more respect and dignity." She says that parents have "begged" their department to take on their cases, rather than going through the state system. With the Tribes, the court allows parents 2 to 3 visits per week with their children, while they state only allows one visit per week. "Judge Pouely doesn't want that bond to be broken. It's so much better here".

Jay Goss, Chief of Police, has been here 5 years and oversees twenty-five officers, and has witnessed many changes in the community. He sees the changes as a reflection of the community who are not willing to accept a high rate of crime, "it's (policing) about carrying out the beliefs and desires of the community,"

Prior to retrocession, he says, "certainly, I've seen first-hand as the Police Department has developed, that crimes are not as observable, i.e., drugs, domestic violence, volatile crimes, etc. That is what is unique about the Department, that through general policing, and other Tribal agencies and the Board of Directors, is that we take a very active role in restorative justice. This has had a great effect on crime (rates). That is not to say that crime is all gone, but it has really been reduced." Although, he says, that the volume of calls for response has increased, it is due to the overall Reservation population, not just Tribal members. Probably what he is most excited about, however, is the Tribes' approach to restorative justice through its drug court. "Through partnership with the police, prosecutor's office, defense counsel, and the court, we work with other departments (i.e., beda? chelh, family services, TERO, ARMS program, and hold regular meetings to coordinate rehabilitative services to the offender." He says, offenders, through the drug court and GPS monitoring are expected to get their G.E.D.'s, get employment training, drug/alcohol treatment, and reintegrate them with their families. This corresponds to the Northwest Tribal Restorative Justice Center's

philosophy of healing-to-wellness, he says, which is the Tribes inter-tribal plans to open a correctional facility later this year.

“I love it here and look forward to coming to work everyday– I’ve worked at seven different tribes, and this is head-and-shoulders above the rest, because of the Tribes’ commitment to change. It’s a good place to end my career.”

ii. Economic Impacts

Another associative benefit for the Tribes in having its own justice system is that a strong tribal court enhances, preserves, and engenders commercial dealings on the Reservation. Without a firm judiciary in place, it would be impossible to foster an environment conducive to economic development. Competent, well-funded tribal courts are essential to tribal economic development. As the tribal court and tribal government appear strong and stable, outside businesses appreciate that they would receive a fair disposition in tribal court and are more willing to do business with the Tribes.

“Businesses are keenly aware of the need to have relative certainty in the outcome of commercial litigation. Such certainty is a part of the risk assessment they do for siting business enterprises [on the reservation]. They also take into account the availability of clear and detailed commercial laws which may be interpreted and enforced by competent judiciaries. Tribal courts are, therefore, a focal point in the infrastructure necessary for successful economic development to take place.” (*D. R. Wharton, NARF, 1998*).

With the Tribes’ many business operations (including the Casino) and soon-to-be built hotel, it is important that businesses who do business with the Tribes understand there is recourse should problems or disputes arise that cannot be settled through mediation or arbitration. If there were no method of resolution, businesses would less likely enter into contractual relationships with the Tribes.

Without internal policing, economic development is unlikely to occur. This is because, previous to retrocession, there were some that were abusing the system, i.e., embezzlement and petty theft. If a government organization is not trustworthy or is known to be corrupt, it is likely to prevent lenders, partners, and businesses from assisting that entity from successful, effective economic development. Thus, law enforcement is a key aspect to ensuring internal workings are protected.

Moreover, those that come to Quil Ceda Village, the Tribes business park, to shop feel much safer and are more inclined to shop and do business there, rather than if there was no police presence, says Chief Goss. “The chances of being a victim of crime are very low, we’ve had three person-to-person (assaults) crimes committed in the last 5 years.”

iii. Sovereignty

Sovereignty is a word of many meanings, and it is used frequently and loosely in Indian affairs. At its most basic, the term refers to the inherent right or power to govern. “At the time of the European discovery of America, the tribes were sovereign by nature and necessity; they conducted their own affairs and depended upon no outside source of power to legitimize their acts of government. By treating tribes as foreign nations and by leaving them to regulate their own internal affairs, the colonial powers and later the

federal government recognized the sovereign status of the tribes”.

“Tribal courts are the frontline institutions that most often confront issues of American Indian self-determination and sovereignty,” writes Professor Frank Pommersheim. “At the same time they are charged with providing reliable and equitable adjudication in the many and increasingly diverse matters that come before them. They also constitute a key entity for advancing and protecting the rights of self-government.” Indeed, the Trial Court is the frontline institution that most frequently confronts issues of Tulalip Tribal self-determination and sovereignty. The Tribes and its leadership must continue to honor and treat the Trial Court as such.

XII. CONCLUSION

Prior to retrocession, there was the perception of the county’s unwillingness or lack of resources to effectively police the reservation which resulted, in some of those interviewed for this paper, a “state of lawlessness.”

However, now that the Tribes have an active law and justice system in place, many changes have taken place. Most notably and perhaps, the most important to the law and justice system is the Tribes’ efforts to combat drug abuse through its Healing-to-Wellness (drug) Court. Previously, alcohol had been a major problem, but those in the law and justice system say that the problem of alcohol is being replaced by drugs.

Further, there have been social impacts on families in the Indian Child Welfare (bedah? chelh) system— those in dependency cases are being returned to their families, rather than being adopted out, as was common prior to retrocession. Working in common with other agencies has had tremendous impact of families in ICW, by not only ensuring that parents are in compliance with court orders to seek counseling and treatment, but also, that the children are also included in this holistic picture.

It is also apparent that Tribal members are more willing to use the Tribal court to settle their general legal housekeeping matters which indicates the credibility of the court.

Also, the economic side-effects of retrocession are that more businesses are willing to engage in commerce with the Tribes due to having a strong Tribal court. Consumers, too, feel they can come to the Business Park to shop without worrying about a high-rate of crime.

Most substantial through this research is that the resurrection of the Tribes’ law and justice system has meant that both the court and police work closely with other Tribal agencies to facilitate its doctrine of restorative justice.

XIII. RECOMMENDATIONS

As state courts avail themselves to court evaluations by the Administration of Courts— tribal courts do so as well. The Tulalip Tribes commissioned such a study in 2004. The purpose of the evaluation was to analyze the Tribal Court’s operations and functioning as an independent judicial system, identify areas where greater efficiency could be achieved and provide suggestions for the overall organization of court operations. The evaluation also looked at the interaction of the judges and staff

towards the public and other tribal staff within the court system to assure that access to justice was being accomplished and also to identify potential areas for improvement. The need for an Executive Director over the court was recommended in the evaluation. The purpose of having an executive director over the court is to coordinate the different components of the Tribes' law and justice system to enhance services to the community and insure that justice is being dispensed fairly and impartially. The Tribes' Law and Justice Committee has discussed implementing such a position for the 2007 budget year.

Aside from the recommendations, the tribal court was accorded the following comment by one of those interviewed for the evaluation, "Tulalip Tribal Court is the best tribal court in Western Washington and second best in the State to only the Colville Tribal Court".

Much acknowledgment should be given to the Tribes and those who have helped build the court to what it is today, because the court does not "fall victim to criticism and stereotypes" in its ability to impartially dispense justice to non-Indians or the courts practice to timely process cases. Non-Indian persons and non-tribal attorneys who have litigated in the trial court found it to be unbiased and fair and also cited the efficiency of the court of processing cases that in state superior courts can take at least eighteen months to reach trial, whereas, the Tribal Trial Court cases are "frequently resolved or are tried to verdict in no more than six months".

However, there has been some debate whether or not the Tribes should separate itself from NICS, although it is believed that the NICS-Tulalip relationship operates to insulate the Tribal Court from the Board which provides a separation of powers between the Tribes' executive/legislative and judicial branches, as is customary with the structure of the federal government system (*Galanda and Smith, 2004*). In contrast, if the Tribes were to take on and maintain its own court system, it adds to strengthen sovereignty as well as will more efficiently finance the court by consolidating its judicial affairs within the Tribes. The court evaluation did not render an opinion regarding whether the Tribes should facilitate its own judicial system, independent of NICS, but "in the spirit of self-determination, should re-evaluate" this relationship.

The only other recommendations are that the Tribes continue to pursue its rehabilitative justice philosophy to help Tribal members within the system to find gainful employment, get an education, get treatment for drugs and/or alcohol, to reunite them with their families to return them into a healthy environment.

FOOTNOTES:

[1] Michael Taylor, Reservation Attorney, Office of the Tulalip Tribes Reservation Attorney, May 2006

[2] Tribal member population is important to note because the law and justice system must meet the needs of an expanding population on the Reservation. In 1995, there were 3,731 (66 % live on the Reservation and 34% live off-Reservation) Tribal members, according to the Tribes' Enrollment Department. The 2000 U.S. Census counted 7,197 non-Indians living on the Reservation. By the year 2030, the projected Tribal member population is expected to exceed 6,000 enrolled Tribal members.

[3] The role of the Tribes' Office of Reservation Attorney has been instrumental in building a strong law and justice system. The office, first created in 1994, only had two full-time attorneys, and one support staff. Today, the office has grown to five attorneys, two presenting officers, two support staff, one office administrator, and during summer months hires a law clerk.

The Reservation Attorney Office is charged to safeguard the interests of the Tribes in preserving and advancing sovereignty and self-determination and believes that, as a legal matter, that the Tribes exist in two separate spheres, 1) as a government of the people and territory, including treaty protected hunting and fishing areas, and 2) as a commercial business and resource owner and operator in which both of these functions are infused with legal issues and institutions. The future of the Tribes is strongly linked to this legal foundation. Because the Tribes possess its own legislature, executives, laws and courts, it has significant advantages over other government and business entities because of this dual existence. The Reservation Attorney's Office has helped to construct, operate, and educate in regards to these legal structures. Thus, in accord with the Reservation Attorney's Office mission to advance these interests, Michael Taylor, senior reservation attorney played an integral part in not only applying for and securing Retrocession, but also along with other Tribal delegates, was a part of preparing for Retrocession.

[4] N.I.C.S. is a consortium of Indian tribes based in the Puget Sound region and the Pacific Northwest. These tribes have jointed their resources to insure that each tribe is able to have its own court by sharing judges, prosecutors, and other related services. Moreover, NICS was established after *U.S. v. Washington*, better known as the "Boldt Decision" in which Judge George Boldt issued an opinion recognizing the right of Western Washington to 50 percent of the State's anadromous fish resources. Tribes often did not have the resources to "maintain their own court systems" and also "lacked robust dispute resolution mechanisms, and were regularly forced into state courts for the resolution of critical tribal disputes. Tribes were subject to state laws that did not consider tribal cultures. In addition, a "Continuing reliance on state, rather than tribal arbitration eroded the Tribes' ability to implement and adjudicate important tribal policies— weak tribal court systems are an obstacle to essential self-governing power. Thus, the creation of NICS empowered Northwest tribes to exercise their sovereign

right to self-determination. Dana Merriman, Tribal Law Development Specialist, Confederated Tribes of the Chehalis Reservation, "*The Harvard Project on American Indian Economic Development*, 2003".

[5] The Tulalip Tribal Court is established by the Board of Directors' pursuant to the Boards' legislative authority under Article VII, Section 1(k) of the Tribal Constitution and By-Laws. The Court is not established and defined by the Tribal Constitution, but by the Board, pursuant to authority delegated by the Constitution. The Tribes' court is a so-called "legislative court," not a "constitutional court." The Court is not constitutionally independent of the Board, in contrast to many state and federal courts that enjoy such freedom from their executive and legislative counterparts. However, the Tribes' relationship with NICS to provide judicial and prosecutorial services does provide a measure of a separation of powers to the benefit of the Tribes.

[6] Ray Moses, February 27, 1006, former Tulalip Tribal Historian.

[7] Debra Fryberg-Hatch-Muir, Project Administrator for the Northwest Tribal Restorative Justice Center, February 2006.

[8] Annie Moses, Court Clerk Administrator, May 2006.

[9] "*Tribal Courts: Providers of Justice and Protectors of Sovereignty*," 79 *Judicature* 3 (November-December 1995).

EXHIBITS:

- A. Letter to Gov. Mike Lowry to Secretary of Interior, Bruce Babbitt Conveying Proclamation of Retrocession, January 14, 1997.
- B. Washington State Proclamation of Retrocession, January 14, 1997.
- C. Tulalip Tribal Resolution 96-0167 Requesting State Jurisdiction, November 2, 1996.
- D. Letter from Herman Williams, Jr., Tulalip Chairman, to Bruce Babbitt, Secretary of Interior, Requesting Retrocession, February 18, 2000.
- E. Letter from Kevin Gover, Assistant Secretary of the Interior, to Stanley G. Jones, Sr., Chairman, Granting Retrocession, November 29, 2000.
- F. Washington State Senate Bill 5848, 1995, Granting Retrocession, February 9, 1995.

- G. Tulalip Ordinance 90, Establishing Police Department, January 4, 1997.
- H. Police Commissioning Agreement Between Tulalip and Snohomish County, August 20, 1997.
- I. Memorandum of Agreement Between Snohomish County Sheriff and Tulalip Tribes, June 27, 1997.
- J. Federal Register Publication, Tulalip Retrocession, December 5, 2000.
- K. Federal Register Publication, Tulalip Retrocession, December 7, 2000.
- L. Letter from Daniel Marcus, Associate Attorney General to Kevin Gover approving Retrocession, September 11, 2000.
- M. Letter to Sheriff Rick Bart from Francis Sheldon Dealing with Retrocession Date Error, December 5, 2000.
- N. Letter from Bob Drewel to Herman Williams, Jr. Setting Up Retrocession Team, May 17, 2001.

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