



Tribal Law Journal
University of New Mexico School of Law
Tribal Court Handbook

TLJ, Spring 2010 (Indian Law Section of the State Bar of NM 1991)

OHKAY OWINGEH PUEBLO

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NAME OF TRIBE: OHKAY OWINGEH

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	Ohkay Owingeh Tribal Court		
Contact Person Name & Title	Geoffrey Tager, Chief Judge		
Address	P.O. Box 1128 San Juan Pueblo, NM 87566		
Phone	(505) 852-4475	Fax	(505) 852-4350
E-mail			

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

Name	Geoffrey Tager		
Title	Chief Judge		
Address	P.O. Box 1128 San Juan Pueblo, NM 87566		
Phone	(505) 852-4475	Fax	(505) 852-4350
E-mail			

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

4 miles north of Espanola off the Taos Highway onto NM 74 in San Juan Pueblo, across from the Governors Office.

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

Ohkay Owingeh Pueblo (formerly known as San Juan Pueblo)

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*)

Traditional appointment of Government officials. Every two-years for Governor, 1st Lt., 2nd Lt., Sheriff and annually for all other traditional officials.

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. San Juan Law and Order Code	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Upon request from Governor's Office and Traditional Court
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
Geoffrey Tager	Chief Judge	(505) 852-4475	
Vangie Aguino	Court Clerk	(505) 852-4475	
Nancy Garcia	Secretary	(505) 852-4475	

9. Tribal Court Organization:

Other branches of the Court (if any):

Other Courts in Tribal Court system are checked below:

- Appellate Court (Tribal Council or members of Tribal Government)
- 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:			

11. Tribal Prosecutor for the Court :

Name	N/A		
Title			
Address			
Phone		Fax	
E-mail			

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

Name	Marcelino Aguino		
Title	Governor		
Address	P.O. Box 1099 San Juan Pueblo, NM 87566		
Phone	(505) 852-4400/4210	Fax	(505) 852-4820
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			
Prosecutors			
Public Defenders			
Bailiffs			
Juvenile Officers			
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:

Used on a case-by-case basis through contract.

- 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	Practicing fee \$150.00 annual and NM Bar recognized (good standing)
2. Are there requirements regarding knowledge of tribal culture or language:	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	No at this time but will change soon.
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	There is a provision in the Code permitting representation by a non-lawyer, tribal members for traditional matters.
4. Do the same requirements apply for state-licensed attorneys?	<input 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 type="checkbox"/> yes <input type="checkbox"/> no	Call the court for this information.
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 type="checkbox"/> yes <input type="checkbox"/> no	Call the court for this information.
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	This will change and be modified within the next year as well.
9. What is the total number of members of the tribal bar?	N/A	Unknown at this time.
10. Of the total number of members of the tribal bar, how many are licensed attorneys admitted to practice in a state?	N/A	Unknown at this time.

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

17. Others that are allowed in practice in Tribal Court: Lay Counsel are allowed to practice with permission prior to litigation, advocates from Peacekeepers DV program, Indian Child Welfare Act Program Director.

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:

8 a.m.–12 p.m. and 1 p.m. – 5 p.m. Monday-Friday

19. Language(s) used in Tribal Court:

English, Tewa, occasionally Spanish

20. Interpreters are available: yes no

Not normally, but upon request one could be obtained.

Contact:

Name			
Title			
Address			
Phone		Fax	
E-mail			

21. Tribal court filing fees:

\$25.00 to \$150.00 (possible changes).

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

Court occurs Monday-Friday.

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

Noted in Law and Order Code.

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

Very limited, but in process of writing a procedures manual.

<input checked="" type="checkbox"/> Civil Procedure	<input 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	

25. These rules can be obtained by contacting:

Name	Geoffrey Tager		
Title	Chief Judge		
Address	P.O. Box 1128 San Juan Pueblo, New Mexico 87566		
Phone	(505) 852-4475	Fax	(505) 852-4350
E-mail			

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

Name	Geoffrey Tager		
Title	Chief Judge		
Address	P.O. Box 1128 San Juan Pueblo, NM 87566		
Phone	(505) 852-4475	Fax	(505) 852-4350
E-mail			

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.

They are available on a limited basis and are still a work in progress.

Name	Same #26 above.		
Title			
Address			
Phone		Fax	
E-mail			

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

- Criminal Torts – Injury Traffic Other: _____
 Other: All types per Law and Order Code Other: _____

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

- Criminal Torts – Injury Traffic
 Other: All Per Law and Order Code

30. Tribal Court decisions and opinions are written oral.

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

Available: to parties of case and only Tribal Governor Officials

Name			
Title			
Address			
Phone		Fax	
E-mail			

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

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

Not available unless parties involved request such. Available to parties of case on request for fee.

Name			
Title			
Address			
Phone		Fax	
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	Geoffrey Tager		
Title	Judge		
Address	P.O. Box 1128 San Juan Pueblo, NM 87566		
Phone	(505) 852-4475	Fax	(505) 852-4350
E-mail			

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). Nothing specific in Code, but a definition is being added.

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: _____
 Other: _____

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

yes no Comments: on fee land, with Tribal 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):

Gaming Tourism Transients on Interstate Highway
 Resort Hunting/Fishing Transients on Other Highways
 Smokeshop Other: Gas Station, Post Office

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 violations including DWIs, increased criminal activity for which State Police will not handle so violators are only subject to a civil penalty, but never prosecuted unless they have violated a federal crime.

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): Tribal Law and Order Code is currently being revised.

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? With approval by Tribal Council

Name: Judge Geoffrey Tager Phone: (505) 852-4475 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 checked="" type="checkbox"/> Marriage <input checked="" type="checkbox"/> Divorce <input checked="" type="checkbox"/> Child Support and Enforcement <input type="checkbox"/> Visitation <input checked="" type="checkbox"/> Paternity <input checked="" type="checkbox"/> Guardianship <input checked="" type="checkbox"/> Abuse and Neglect <input checked="" type="checkbox"/> Out of home placement <input checked="" type="checkbox"/> Children in Need of Supervision (CHINS) <input checked="" type="checkbox"/> Adoption (including ICWA) <input checked="" type="checkbox"/> Probate (Estate distributions) <input checked="" 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 checked="" type="checkbox"/> Status offenses (curfew, truancy, underage possession of alcohol, etc.) <input checked="" type="checkbox"/> Non-status offenses (criminal) <p><input type="checkbox"/> Other: _____</p> <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 checked="" 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 checked="" type="checkbox"/> Appeals <p><input type="checkbox"/> Other: _____</p> <p><input type="checkbox"/> Other: _____</p>
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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 checked="" type="checkbox"/> Criminal Court procedures (e.g. requirements for filing a complaint, time limits for hearings and motions, format for documents)</p> <p><input checked="" 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 checked="" 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 checked="" 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 type="checkbox"/> Other formal agreements <input checked="" type="checkbox"/> Informal agreements	Circles of Life, San Juan Pueblo, New Mexico
Detention Facilities	<input checked="" type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	Southern Ute Indian Tribe, Santa Fe Adult Detention Center
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	

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 type="checkbox"/> Persons: (Please specify and describe)	Non-Indian v. Non-Indian
<input checked="" type="checkbox"/> Subject Matter: (Please specify and describe)	Criminal acts; civil matters where one party resides off reservation.

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

If yes, concurrent jurisdiction is over:

<input checked="" type="checkbox"/> Persons: (Please specify and describe)	Child Support, Domestic Violence
<input checked="" type="checkbox"/> Subject Matter: (Please specify and describe)	Child Support, Domestic Violence

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

The services provided are: Social Services, Youth Programs and Senior Citizens