

# Understanding Tribal Courts

OFFICIAL SCENIC HISTORIC MARKER

PUEBLO OF ZIA



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# OBJECTIVES

- **Greater Understanding of the History of the Pueblos and Traditional Law**
- **Greater Understanding of the History of Tribal Courts**
- **Greater Understanding of the Jurisdiction of Tribal Courts**
- **Greater Understanding of the benefits of Tribal Courts**

# History of the Pueblos

- **New Mexico is Home to 19 Pueblos and 3 Tribes**
- **Each Pueblo has its own traditions, although some may be similar**
- **Each Pueblo has its own history although some history is shared**
- **Each Pueblo has held on to its own language - there are 4 distinct languages**
  - **Keres, Tewa, Tiwa or Towa**

# History of Zia Pueblo

- The Pueblo of Zia is part of the Keres Nation.
- Zia people are believed to be descendants of the Anazasi, migrating down from the Chaco Canyon area.
- Occupied continuously since 1250 A.D.
- Originally one of the largest Pueblos with eight plazas and 6,000 members

# History of Zia Pueblo

- After many years of Spanish Colonization, Indians united and the historic Pueblo Revolt of 1680 was organized
- Today only one Plaza and about 850 members
- 1692 Zia converted to Catholicism and has intricately woven Catholic practices into its traditions and customs still observed today

# Traditional Law Organizational Chart

- **War Captain**
- **Lt. War Captain**
  - 8 Aids to the War Captains
- **Governor**
  - 4 Aids to the Governor
- **Lt. Governor**
  - 2 Fiscales (Keepers of the Church)
  - 2 Ditch Riders (Mayordomos)

# Tribal – State Relations

- Zia Pueblo is home of the Zia Sun symbol
- The number 4 (“Giver of All Good Gifts”) being a very sacred number, the Sun Symbol is symbolic in many ways:
  - red sun with *four* stylized rays
    - recalling the four directions
    - the four seasons
    - the four phases of the day (sunrise, noon, evening, night)
    - the four stages of life (childhood, youth , adulthood, elderly)

# Tribal – State Relations

- Adopted by New Mexico as the symbol for the State Flag in 1920.
- Film Industry
- Tribal-State Relationship – Governor Richardson’s Administration very supportive of Tribal Sovereignty
- Recognition of Tribal Court Orders



# HISTORY OF TRIBAL COURTS

- Bureau of Indian Affairs
  - CFR Courts (Courts of Indian Offenses)
  - 1880 U.S. vs. Crow Dog
- Indian Reorganization Act

# Public Law 83-280

- Enacted 1953
  - Public Law 83-280 (commonly referred to as Public Law 280 or PL 280) was a transfer of legal authority (jurisdiction) from the federal government to state governments which significantly changed the division of legal authority among tribal, federal, and state governments.

# Public Law 83-280

- Amended 1968
  - These 1968 amendments added a tribal consent requirement and authorized states to give back (or retrocede) jurisdiction to the federal government.
  - The 1968 amendments also included a section which enables any state which had previously assumed jurisdiction under Public Law 280 to offer the return (or retrocession) of all or any measure of its jurisdiction to the federal government by sending a resolution to the Secretary of the Interior.

# Indian Civil Rights Act

- Enacted 1968
- The Indian Civil Rights Act of 1968 (ICRA) prohibits Indian tribal governments from enacting or enforcing laws that violate certain individual rights.
- It is similar to the Bill of Rights in the United States Constitution, which guarantees personal freedoms against actions of the federal government, and the Fourteenth Amendment to the Constitution, which extends those protections to actions of state governments not Tribal governments,
- Congress adopted the ICRA to ensure that tribal governments respect basic rights of Indians and non-Indians.

# PL 93-638

- Indian Self Determination and Education Assistance Act
- Enacted 1975
- Tribes began contracting
- Benefits of Tribal Courts

# Tribal Codes

- Traditional
- Written
- Western Philosophy
- Combination
- Holistic – Restorative Justice (Peace Keeping Circles, Elders Councils)

# Tribal – State - Federal

- Federal Jurisdiction
  - General Crimes Act
  - Major Crimes Act
- State Jurisdiction
  - PL 83-280 (shared)
- Tribal Sovereignty
  - Indian Child Welfare Act
  - Adoption and Safe Families Act

# Improve Tribal – State Relations

- Develop Relationships
  - Respect
  - Trust
  - WYSIWYG
- Tribal Consultations
- Full Faith and Credit
- Comity