Table 3
Income Base Used in Each Jurisdiction

Gross Income	Adjusted Gross Income		Net Income	
Georgia	Alabama	Missouri	Alaska	New Jersey
Nevada	Arizona	Ohio	Arkansas	New York
New Mexico	Colorado	Oklahoma	California	North Dakota
North Carolina	District of Columbia	Oregon	Connecticut	Pennsylvania
N = 4	Guam	Rhode Island	Delaware	Puerto Rico
	Idaho	South Carolina	Florida	South Dakota
	Indiana	Utah	Hawaii	Tennessee
	Kansas	Vermont	Illinois	Texas
	Kentucky	Virginia	Iowa	Virgin Islands
	Louisiana	Wisconsin	Michigan	Washington
	Maine	N = 24	Minnesota	West Virginia
	Maryland		Montana	Wyoming
	Massachusetts		Nebraska	N = 26
	Mississippi		New Hampshire	

Conclusion

There is a growing consensus among the various jurisdictions on a number of guidelines issues. Between the NCSC's 1988 and 1990 surveys, the number of jurisdictions using the income shares model grew from 20 to 33, or 63 percent of the jurisdictions. Most jurisdictions have also moved to assigning the guidelines presumptive status in the judicial process. Agreement is also growing on how the parents' income base should be defined.

However, this increased uniformity should not camouflage the continued development activity. In the two years since the original guidelines were collected, 42 jurisdictions revised their guidelines, and there is evidence this activity is continuing. This article is intended to assist in that effort by providing a guide to what the states and territories are doing as the definition of policy continues in this important area.[4] scj

Table 4
Methods of Income Base Calculation[a]

	Type of Guideline			
Income Base	Income Shares	Percentage	Melson-Delaware	Total
Net	12	10	3	25
Adjusted gross	20	4	0	24
Gross	1	3	0	4
Total guidelines	33	17	3	53

[a] For this table, California was placed in the "Percentage" category and the Virgin Islands were omitted.

Notes

1. The Child Support Enforcement Program, Title IV-D of the Social Security Act (PL 93-647, Part B), was established in 1975. This act created in each state a single and separate agency (IV-D agency) designated to administer the child support enforcement program. This agency is, in most states, found under the auspices of the state department of health and human services or comparable state welfare agency. The IV-D agency is responsible for submitting to the U.S. Office of Child Support Enforcement, Department of Health and Human Services, a state plan, which is a comprehensive statement for carrying out the requirements of the Title IV-D program.

2. A compendium containing the guidelines from each of the 54 jurisdictions will be published by the National Center for State Courts in 1990.

3. U.S. Department of Health and Human Services, Office of Child Support Enforcement, September 1987.

4. For additional information, see *A Summary of Child Support Guidelines*, Williamsburg, Va.: National Center for State Courts (forthcoming).

Tribal Courts and State Courts:

Disputed Civil Jurisdiction Concerns and Steps Toward Resolution

H. Ted Rubin

An estimated 150 tribal courts operate in the United States, and this number is growing. A large body of U.S. Supreme Court and other federal court decisions, beginning in 1823, have defined the legal status of Indian tribes, determined tribal authority, limited state regulating and taxing authority, and specified tribal court jurisdiction. State trial and appellate court judges also have been asked, with increasing frequency, to resolve jurisdictional issues affecting parties who are both state citizens and members of federally recognized tribes.

Legislation to guide courts in resolving civil jurisdiction issues between tribes and states has developed slowly and often has been unresponsive to the practical problems of litigants who seek determinations as to whether tribal or state courts are the proper forums for their concerns.

In response to growing concern over the lack of effective resolution of disputes between state and tribal courts over civil jurisdiction matters, the Conference of Chief Justices (CCJ) established a Committee on Civil Jurisdiction in Indian Country. The significance and complexity of these issues led the committee to recommend that the state judiciaries encourage tribal and state governments to cooperate in resolving jurisdictional problems at tribal, state, and local levels. Subsequently, CCJ endorsed a project, designed by the National Center for State Courts and later funded by the State Justice Institute, that would provide a research basis and model approaches to dispute resolution that tribal and state courts could use cooperatively to resolve disputes in constructive, nonlitigative ways. A 13-member coordinating council composed of state appellate justices, tribal court judges, state trial court judges, federal judges, an Indian and non-Indian attorney, a state court administrator, and legal scholars and consultants guides the project.

This article reports findings from two surveys undertaken during the project's first year. Both surveys sought informa-

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tion on the nature and extent of disputed jurisdiction problems between tribal and state courts, whether these courts granted full faith and credit or comity to the decisions and judgments of the other court system, and approaches that have been or might be taken to resolve disputed jurisdiction concerns without using courts.

Background

In the tribal/state court nexus, one court system or the other may have exclusive jurisdiction over one type of case, but with other case types the jurisdiction may be concurrent. When authority is exclusive, attorneys may nonetheless not accept this provision and seek a remedy in the other court system.

Even when the proper forum is used, problems may arise in enforcing the judgment. For example, a losing party may contend that the proceeding was improperly conducted and need not be honored, or that the judgment may have been entered properly but the enforcement process was improper.

In a number of areas it is not clear which court system has jurisdiction, or one court system may make a ruling in a case unaware that the other court system already has jurisdiction. These and a range of other scenarios hamper efficient judicial administration.

The first survey conducted by the NCSC tribal court jurisdiction project was a mail survey. Tribal and state court officials, state attorneys general, and bar association executives in the 32 states with federally recognized Indian country received the survey.

The second survey consisted of telephone interviews with 65 tribal and state court officials and state executive agency representatives in seven states—Alaska, Arizona, North Dakota, Oklahoma, South Dakota, Washington, and Wisconsin—selected by the coordinating council using such criteria as diversity of problems and geography, a recognition that significant problems existed, and the apparent willingness of officials to actively assist with further project research.

Results of the 32-state survey

Who reported disputes?

The mail survey results were divided according to responding groups (tribal officials, state court officials, attorneys general, etc.). In 28 states, one or more responding groups answered the survey. Responses were received from 36 tribal court judges, 14 state chief justices, 69 state court judges, 18 attorneys general, 10 state bar association executives, and 5 attorneys who practice in tribal courts or represent tribal governments.

In 7 states (Connecticut, Kansas, Louisiana, Massachusetts, New York, Oregon, and Texas) no disputed jurisdiction cases were reported by any responding group. One responding group in each of 9 states (California, Florida, Idaho, Maine, Mississippi, Montana, Nebraska, Nevada, and South Dakota) reported disputed jurisdiction cases. In 6 other states (Arizona, Colorado, Michigan, Minnesota, North Dakota, and Oklahoma), two responding groups reported such cases. Three responding groups reported disputed jurisdiction cases in 5 states (Alaska, New Mexico, Utah, Washington, and Wisconsin), while 1 state (North Carolina) had four responding groups report disputed jurisdiction cases.

How many disputes were reported?

The number of disputed jurisdiction cases reported by the 21 states reporting case disputes were analyzed. Nine states (California, Colorado, Florida, Idaho, Maine, Mississippi, Nebraska, Nevada, and North Dakota) reported 1 to 10 cases. Utah reported 10 to 20 cases. Minnesota and Montana reported 20 to 30 cases. South Dakota reported 30 to 40 cases. Three states (Alaska, New Mexico, and Washington) reported 40 to 50 cases. Five states (Arizona, Michigan, North Carolina, Oklahoma, and Wisconsin) each reported more than 50 cases.

What kinds of disputes were reported?

Indian Child Welfare Act (ICWA) case problems were the most frequently cited. Tribal courts were the primary complainants, reporting more than half of the total. ICWA cases arise when there is uncertainty or inattention as to the particular court system that may have jurisdiction, when state courts insufficiently adhere to ICWA guidelines for referral to the tribal court, when one parent is Indian and one is not, when Indian children live off the reservation, when state authorities remove Indian children from a reservation unaware of a tribal court's earlier jurisdiction over the family or without following tribal procedures, when state authorities fail to issue a new birth certificate following a tribal court adoption, and in other circumstances.

Domestic relations disputes were cited nearly as often as ICWA matters. Again, tribal courts were the primary complainants. Domestic relations disputes arise over which court system has jurisdiction for divorce, child custody, and support. Disputes also occur when only one parent is Indian. Disputes may occur where there is concurrent jurisdiction (the state court having lawful jurisdiction over a divorce, the tribal court having lawful jurisdiction over the children from an abuse or neglect finding) or when the state court enters a custody order that is challenged. Numerous disputes involve child support enforcement: a non-Indian spouse may challenge a tribal court child support order accompanying a divorce; a reservation Indian may seek to reject a state court's jurisdiction with child support; a tribe member may seek to reject a state court process served on the reservation. There may be problems with enforcing a state court domestic violence protection order on the reservation and with enforcing a tribal court order in a state court.

Contract actions were the third most commonly cited disputed casetype, but unlike ICWA and domestic relations cases, these cases were reported most frequently by state trial court judges. Contract breaches followed by state suits lead to problems with enforcing judgments and serving process on the reservation. A tribal court may require that the state court judgment be brought to the tribal court to secure enforcement. Short of this, tribal police may refuse to serve state court process. Contract breaches may involve individual Indians, tribal governments, or business entities.

The greatest number of disputes were in a catch-all category labeled "Other," but this miscellaneous category was anchored by 150 cases reported by one Michigan tribal court. There, reportedly, the state maintained that only certain lands within the exterior boundaries of the reservation were subject to tribal court jurisdiction, although tribal authorities continuously disputed this claim.

Taxation and hunting and fishing disputes also were reported frequently. Tribal governments disputed state taxing authority over bingo and economic enterprises, as well as an oil and gas severance tax on one reservation. Hunting and fishing disputes involved treaty rights.

How were disputes reported by state?

For states reporting more than 50 disputed jurisdiction cases, domestic relations and contract problems were most common in Arizona. Michigan reported the greatest number of disputed jurisdiction cases of all states, including the 150 cases reported by the Keweenaw Bay Tribal Court relating to jurisdiction over actions taking place within the exterior boundaries of the reservation. A state court in Traverse City, Michigan, reported many hunting and fishing disputes that involved state and federal courts as well as the Bureau of Indian Affairs.

The primary problems found in North Carolina related to contract enforcement. Oklahoma's primary problems were taxation, ICWA, and domestic relations matters, as reported by tribal courts, and to a lesser degree gambling and ICWA cases, as reported by chief justices. Wisconsin's three reporting sources emphasized ICWA and domestic relations concerns, although gambling and contract disputes were prominent.

Mutual recognition of court decisions

The survey found that tribal courts quite generally recognize state court judgments. Frequently, tribal court respondents reported that their court systems recognized state court decisions but that the reverse was not true. Tribal courts expressed substantial frustration with a perceived unwillingness by state courts to recognize tribal court judgments. Yet state trial court judges indicated that, quite generally, recognition is provided

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to tribal court decrees, and both chief justices and attorneys general more often than not reported similar state court recognition.

About ten states provided answers from one or more tribal courts and one or more other respondent groups. Florida, North Carolina, and Oklahoma reported mutual, affirmative recognition both by a tribal court and by one or more other groups. Arizona and Washington reported essentially similar affirmative recognition.

Four states reported dissimilar responses: in Alaska, Minnesota, New Mexico, and North Dakota, tribal courts provided recognition, but state officials reported that state courts did not recognize or only sometimes recognized tribal court decrees. A California tribal court and state court judge reported that they provided recognition, but the state's attorney general reported that recognition was not provided.

While, overall, tribal courts reported that they recognize state court judgments, different tribal courts in four

The Washington Supreme Court underwrote the expenses for tribal court judges to attend several annual judicial conferences, where specialized subject matter on tribal law developments was presented.

states gave conflicting answers. Different tribal courts in Arizona, Idaho, Nevada, and Washington reported that they did and did not recognize state court judgments.

Educational and cooperative approaches

Survey respondents described an array of approaches undertaken by their states to increase understanding of their respective court systems. They reported formal and informal agreements as well as legislation that appeared to reduce the need for litigating jurisdictional concerns.

The Washington Supreme Court underwrote the expenses for tribal court judges to attend several annual judicial conferences, where specialized subject matter on tribal law developments was presented. The Oklahoma Supreme Court cosponsors an annual Sovereignty Symposium that presents Indian law issues to large audiences of perhaps 500 tribal court and government officials and state court officials. The Wisconsin Supreme Court will cosponsor a related symposium in October 1990.

A visit by the chief justice of the Arizona Supreme Court, Frank X. Gordon, to the Navajo Nation's judicial system headquarters in Window Rock received noteworthy attention from both Indian and state judicial officials. Arizona state court judges who preside in locations adjacent to Indian country have joined with tribal court judges from the Apache, Navajo, and Hopi nations to form a Northern Arizona Judicial Committee to meet periodically and share judicial concerns, information, and resources and address mutual problems and issues.

The Indian Law Committee of the State Bar of South Dakota published and disseminated *The South Dakota Tribal Court Handbook*, which describes the history, requirements for practice, and jurisdictional parameters of the nine tribal courts in South Dakota. According to the handbook, which is intended to be a resource for the practicing bar, "the overarching objective of this effort is to facilitate ongoing communication, understanding, and respect for tribal courts and tribal court personnel."

Formal agreements between tribal and local or state government can be useful. For example, the Snohomish Tribe in Washington cited the comprehensive land use plan and zoning ordinance it agreed to with the county government. The Maine attorney general reported on legislation, agreed to by Indian tribes and then enacted, that clearly defined the jurisdiction of a tribal court and authorized the state to retrocede Public Law 280 jurisdiction for three tribes.

Joint tribal and state task forces to study problems of service delivery and recommend approaches to addressing jurisdictional problems have been used in Michigan to examine social services, mental health, and public health concerns. Implementation of task force recommendations can reduce problems reported in other states; for example, disputes between tribes and states over who will pay for foster care of children or a dispute that arose when a state mental hospital refused to accept an Indian who had been found in need of hospitalization by a tribal court but who had not been adjudicated by a state court.

The Wisconsin Legislative Council created an advisory committee on tribal courts as part of the American Indian Study Committee to review a range of issues relating to tribal governments, tribal courts, state courts, and state administrative agencies. The advisory committee recommended draft legislation that would expand the grant of full faith and credit by state courts, enable state law enforcement officers to enforce a tribal court's temporary restraining orders in domestic abuse cases, authorize the department of transportation to take into account traffic convictions obtained in a tribal court in determining whether to suspend or revoke an operating privilege, and direct the department of health and social services to accept and register valid vital records submitted by tribal courts. In April 1989 the legislative council voted unanimously to introduce the four bill drafts.

Another example of a problem-reducing approach is cited in the report of the Colville tribe of Washington. There, a tribal government and tribal court agreement permitted state child support claims against tribal members as long as the state first filed its claim in the tribal court. Many additional examples, completed or proposed, were described by respondents.

The seven-state survey

Structured telephone interviews were conducted with 7 to 12 officials each in Alaska, Arizona, North Dakota, Oklahoma, South Dakota, Washington, and Wisconsin. Responses were obtained from a total of 23 judges, 8 court administrators, 11 private attorneys, 5 social service agency representatives, 11 government officials, and 7 attorneys general. As with the mail survey, questions focused on three areas: types of jurisdictional conflicts, mutual recognition of orders and judgments, and information and suggestions about how to resolve jurisdictional conflicts without unnecessary litigation.

Overall, ICWA and domestic relations cases were the most often mentioned in almost every state and quite often were identified as the most common or most difficult casetypes. Respondents often stated that state courts were quite good about transferring ICWA cases when they were aware of the law, but they noted other difficulties in administering the law, such as determining who is an Indian child. Domestic relations cases, however, frequently ended in disputes over which court should have jurisdiction and whether one court would enforce the child support, custody, or domestic violence restraining order of the other court.

Taxation issues (such as whether a state has the authority to tax commercial sales or mineral removals on Indian land) and hunting and fishing disputes (such as tribal authority to exercise treaty rights in particular areas of a state) were the next most frequently cited disputes. Economic and commercial development, torts, traffic law, gambling, installment contracts, and natural resources disputes, in descending order, were the next most frequently cited.

States shared similarities as well as differences in their descriptions of problem areas.

State-by-state analysis

Alaska. The vast majority of cases fall under the ICWA. Conflicts are prompted because a number of tribal courts are not recognized by the state. Although there have been no court cases over hunting and fishing rights, four respondents anticipate that this will become a source of conflict. Since the exact boundaries of the Metlakatla reservation are not clear, an issue likely to arise is where the state can enforce its hunting and fishing regulations. Although the state does not officially recognize tribal courts other than the Metlakatla, some judges do recognize other tribal court judgments. There are written agreements between some tribes and villages and the department of health and social services concerning procedural aspects of the ICWA, although one respondent noted that the agreements were not being used. Reportedly, the governor lobbies for a change in the federal ICWA legislation that would give villages concurrent jurisdiction in those cases.

Arizona. This state does not appear to have serious conflicts concerning ICWA matters. State court judges will almost always readily transfer these cases to the tribal court and notify the tribal social service agency. Domestic relations conflicts arise when only one of the parties is Indian or when one of the parties lives off the reservation. But the tribes and the state adhere to common principles regarding tribal membership and domicile and are willing to relinquish jurisdiction when those principles apply. Taxation concerns are mentioned prominently. The U.S. Supreme Court has ruled that an Arizona tribe may levy a tax on a non-Indian coal company. The state also may impose a tax. If a business challenges a tribal tax, the case must be filed in tribal court.

The attorney general has determined that a state court cannot recognize tribal court orders for involuntary commitment to a state mental hospital. Nonetheless, the court of appeals granted comity to such a tribal court order, however, the state hospital resisted the procedure. The Arizona Supreme Court has ruled that tribal court decisions should be given comity, and the Navajo Supreme Court has ruled that comity should be given to state court judgments. The greater problems arise when state governmental agencies or businesses fail to recognize tribal court orders.

The lines of communication between tribal and state court judges are open, and judges on both sides seem to make an effort to get to know each other and to understand each other's judicial systems and cultural values. The state court system has provided certain technical assistance to tribal courts.

Domestic relations cases, however, frequently ended in disputes over which court should have jurisdiction and whether one court would enforce the child support, custody, or domestic violence restraining order of the other court.

North Dakota. The most frequently cited conflicts are domestic relations and ICWA matters, followed by taxation, tort, and economic and commercial development concerns. The most common domestic relations problems stem from a lack of recognition of tribal or state court judgments. Reportedly, a state court judge will refuse to honor tribal court orders for which he or she suspects that one of the parties was denied proper notice and an opportunity to appear. When an Indian parent takes children back to the reservation in violation of a state court order, the state will not go on to tribal land to enforce the order. Many respondents expressed concern that businesses are reluctant to operate on the reservation or to sell goods to Indians who live on a reservation because they lack an effective venue for

resolving disputes. There are also unresolved taxation issues against tribal businesses, such as workers' compensation and unemployment compensation assessments, as well as questions over whether the state has the power to regulate hunting and fishing rights.

State court judges said they give full faith and credit generally if they find minimal standards of due process have been met, but they do not recognize *ex parte* orders. Most respondents said that tribal courts generally do not recognize state court decisions. This creates problems, especially for family law and installment contract cases. Instances of formal cooperation mentioned are a judicial planning commission that includes members of tribal courts and periodic meetings between the governor and tribal leaders. While in most states at least two respondents mentioned they maintained good working relationships or personal contact between judges in the two systems, there was no such mention in this state.

Oklahoma. Eight respondents cited taxation problems, and six mentioned ICWA and gambling concerns. Conflict over taxation centers on the state's right to tax cigarette sales on the reservation and the tribe's right to issue tribal automobile license plates. Although there has been a good deal of litigation over the state's right to tax and regulate bingo halls, the issue appears to have been resolved by a federal court decision that ruled the state had no jurisdiction and by recent federal legislation. A conflict over the tribes' authority to operate racetracks is imminent.

Respondent's comments suggested that state court judges had been reluctant to transfer ICWA cases in instances where transfer was required. One tribal court judge said that the problem was serious and the volume of cases was quite high. Yet two respondents noted that tribes often declined to accept ICWA transfers because they lacked subpoena power and resources for investigation. The respondents did not agree on whether state courts recognized tribal court decisions. However, a tribal court judge stated, "It's the businesses, not the courts, that give us trouble." An official from the attorney general's office noted a case in which a tribal court had not honored a state administrative procedure.

Two statutes enacted in 1988 are viewed favorably. One acknowledges federal recognition of Indian tribes recognized by the U.S. Department of the Interior and directs that the state shall work in a spirit of cooperation with federally recognized tribes to further federal policy for the benefit of both state and tribal governments. The other establishes a joint legislative committee on state-tribal relations, which is responsible for overseeing agreements between tribal governments and the state.

South Dakota. ICWA, domestic relations, economic and commercial development, and hunting and fishing disputes were cited most frequently. Respondents agreed that the state will transfer ICWA cases readily, but tribes may be reluctant to accept cases because they lack the social services to handle these matters. Domestic relations jurisdiction does not appear well defined. A tribal attorney stated that although Indians prefer to take their case to a tribal court, many file for divorce in a state court because they worry that a tribal divorce will not be honored when they remarry and need a state marriage license. Questions have been raised over which court system has jurisdiction over an Indian corporation operating on the reservation. Several respondents were worried that tribal economic development may be hampered if non-Indian businesses fear that tribal courts will not provide an adequate venue to collect debts.

The Cheyenne River Sioux are involved in a federal court case over who controls hunting and fishing along the Missouri River as it runs through the reservation and who controls surface use to lakes that border on reservation land. The state claims it has regulatory power over all the waters within the state, including lakes that are partly on the reservation.

A recent statute requires state courts to give comity to tribal court orders if they meet specific, restrictive criteria. Two tribal attorneys perceived a strong bias in the non-Indian community, which may preclude recognition of the tribal courts. Four respondents, including three tribal officials, said that tribal courts do not honor state court orders. Participants reported some useful, informal working agreements between tribal governments and state social services agencies and periodic negotiations with various state agencies, "but not between the two court systems." There is a great deal of mistrust and antagonism, especially on the state court side, because of the perceived lack of continuity and stability in tribal court leadership, questions relating to the independence of the judiciary, and an alleged failure to meet minimum due process standards.

Washington. ICWA, domestic relations, economic and commercial development, and hunting and fishing disputes were cited most frequently. However, even those who cited the ICWA as a conflict area insisted there is minimal conflict because procedures are well defined. The attorney for the department of social and health services stated that tribal members have equal entitlement to social services. "[Further], if the tribal court has ordered something to be done, we will respond to the court's orders as if the case were in state court." In the case of a divorce involving an Indian and a non-Indian, it appears that "whoever files first [and where the case is filed] decides the issue of jurisdiction." If tribes do not have codes adequate to decide these cases, the matter will be handled in a state court. The jurisdiction in a recent case where there were conflicting custody orders in tribal and state courts was not clearly resolved by a federal court.

The tribes generally have their own hunting and fishing regulations and enforcement officers, and violations are usually handled in tribal courts. Enforcement agreements between tribes and state game wardens, which tend to circumvent conflict, are evolving or already in place. But if a tribal member violates the tribal code and there is no prosecution in the tribal court, the state will assert its right to prosecute the case. The state will suspend the case when prosecution in the tribal court is initiated. Recognition of the judgments of the other court system is irregular and may vary from one state court to another or from one tribal court to another and depends on the particular case type involved.

Respondents praised the Centennial Accord signed by the governor and tribal leaders, in which they recognize each other's sovereignty and agree to deal on a government-to-government basis to resolve disputes. This has inaugurated a legislative program that fosters working agreements across the state. Ongoing negotiations about hunting and fishing rights, ICWA procedures, land use management, and resource use have brought about better working relationships. The department of social and health services has developed a uniform model agreement on how to handle ICWA matters, which is seen positively.

Wisconsin. Hunting and fishing and domestic relations concerns are cited most frequently. Decriminalized traffic violations, domestic relations, and taxation concerns are prominent, also. The Chippewa Tribe has begun to reassert its long-standing treaty rights to hunt, fish, and harvest timber on off-reservation, privately owned, state-regulated land. While the controversy has not directly affected the civil jurisdiction of state courts, it has undermined cooperation between the two court systems. The Supreme Court has held that the Menominee Tribe has jurisdiction over Indians regarding traffic violations on the reservation while the state court has jurisdiction over non-Indians' violations on the reservation. Menominee law enforcement officials write tickets to non-Indians, although theoretically there is no jurisdiction. As long as no one objects, the tribe collects the fine. Conversely, it is not fully clear whether county law enforcement officers can stop a non-Indian on the reservation.

Child support enforcement problems arise when a state court order is ignored by an Indian who has returned to the reservation. A state court system official stated it was not worth the time to try to enforce the order on the reservation. A related view was expressed by a tribal court judge who stated that only some state courts will enforce a tribal court child support order if the father has moved off the reservation.

Current legislation gives Menominee decisions and judgments full faith and credit in state courts, and a bill is pending that would extend recognition to all tribal courts. While many participants noted good working relationships and regular personal contact between judges in both systems, others said the level of cooperation varies from county to county.

Summary

It is difficult to make secure generalizations about the jurisdictional disputes between tribes and states because state law and state recognition policies and practices are not uniform across each state. Federal laws and treaties can vary widely among tribes even within a state. The extent and integrity of a tribal land base and the evolution of tribal governments and courts also have a direct effect on state policies and practices. While there are similarities and differences between the types of disputes that arise in the states, there is evidence that informal working agreements between the judges of the two court systems, the education of judges and lawyers as to the respective authority of the two court systems, legislation that clarifies full faith and credit or comity, and formal agreements between the two governments can reduce conflicts. Cooperation between the two court systems seems to vary from state to state, but even in cooperative states more can be done to bring these two sets of officials into closer communication.

Steps for the future

The Civil Jurisdiction in Indian Country Project's focus for 1990 will be to implement demonstration forums in three states. The forums are designed to provide a formal basis for developing and initiating an action agenda with a range of strategies to reduce disputed cases. Each forum will develop and initiate a plan that can include joint educational programs, informal meetings and working agreements, cross-visitation, exchanges of legal materials, agreements between tribal governments and state executive agencies, state legislation, and other approaches resulting from understanding, communication, and cooperation.

The coordinating council guiding this project has selected Arizona, Oklahoma, and Washington as the three forum states based on diversity, extent of problems, and a history of cooperative working relationships. Each forum will consist of four state court system officials, three tribal court officials, and a lawyer or law professor consultant.

The three states' experiences will be presented at an anticipated national conference of tribal and state court leaders in 1991. It is the hope of the Conference of Chief Justices and the coordinating council that other states with jurisdictional disputes will use this model approach so that the two court systems can function more efficiently and effectively and so that mechanisms will be put in place to enhance their collaboration and working relationships. scj