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Concurrent Jurisdiction between Tribes Comity Guidelines

In addition to the state and tribes sharing jurisdiction, two or more tribes may concurrently share jurisdiction over a matter. This situation commonly arises, for example, in child protection or custody disputes over Native children who are eligible for tribal membership in more than one village. In these circumstances, one tribal court either defers jurisdiction to the other court or both courts work out an arrangement to work together as a joint court, or with one court advising the other.

Ideas for comity guidelines when two or more tribal courts have jurisdiction over children:

- If the situation is not an emergency, two tribes that share jurisdiction over a child's case (because the children are tribal members or eligible for tribal membership in both tribes) should talk with each other to discuss which tribal court should hear the case or if there should be a joint tribal court formed.

- ❑ In emergencies, the tribal court that begins to handle a case should be recognized by the other tribal courts to have 'priority' jurisdiction for the time being. If another tribal court has more significant connection to the child, the case can be transferred to that court later.
- ❑ If the court that is hearing a case has significant connections with the child and has made significant progress in the handling of the case, the other tribal courts should defer to that court's jurisdiction, permitting it to complete the case.
- ❑ If more than one tribal court has jurisdiction over a child, and neither has spent much time on the case, both courts should examine the cultural, family, and residential contacts of the child with each of the tribal communities and decide which village is the one with the most significant contacts.
- ❑ If more than one tribal community has significant contacts with the child, the tribal courts of those communities can work out a cooperative agreement such as a joint tribal court panel to hear the case. A joint tribal court panel is an option that is fairly common among Alaska tribes.
- ❑ Tribes could allow other tribes to be interveners on a children's case, similarly to state courts under the terms of the Indian Child Welfare Act.

Tribal courts should voluntarily transfer the jurisdiction of the child's case to any court that will best be able to serve the best interest of the child.