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**DISPUTED JURISDICTION AND
RECOGNITION OF JUDGMENTS BETWEEN
TRIBAL AND STATE COURTS:
A TYPOLOGY OF STATES
WITH INDIAN COUNTRY**

1990

Prepared by
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Disputed Jurisdiction and Recognition of Judgments between
Tribal and State Courts: A Typology of States with Indian Country
by
H. Ted Rubin*¹

The National Center for State Courts conducted a survey in 1989 that sought to discern the nature and extent of civil jurisdiction disputes that occur in and between tribal and state courts. Research findings were intended to form a foundation for a more intensive telephone survey of tribal and state court officials' observations of these concerns in seven states, from which three states would be selected to pilot demonstration Forums. The Forums are to very specifically define the parameters of jurisdictional disputes in these states, develop a leadership consensus as to approaches that can be taken to reduce litigation that arises from unneeded jurisdictional challenges, and to initiate an action plan that would begin to resolve these concerns through formal and informal working agreements, formal and informal meetings, educational conferences, joint visitations, legislation, task force studies, and other activities.

Surveys were mailed to five sets of officials in the 32 states with Indian country. Reports were received from one or more responding groups in 28 states. Responses were received from 36 tribal court judges, 14 state chief justices, 69 state trial court judges, 18 state attorneys general, and ten state bar association executives. The survey asked respondents to check those casetypes where a disputed jurisdiction issue had occurred, the number and seriousness of these cases, and the steps taken to resolve these cases.

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Respondents were asked, also, whether their court system granted full faith and credit or comity to orders and judgments of the other court system. Further, the survey requested information on approaches that had been taken and might be taken to increase understanding and reduce conflicts between these two court systems. State court systems were asked whether they had or might be willing to provide technical assistance to tribal courts or include tribal court officials in their educational programs.

This paper reports on the first two of these issue areas: disputed jurisdictional concerns and recognition of the other court system's orders and judgments.

Table 1 lists the reports received by state, the disputed jurisdiction casetypes, and the number of disputed cases from each respondent group. Some states report no problems and others report several to many. Different states report problems with varying casetypes and numbers of cases.

Table 1
Survey Report of Disputed Jurisdiction Casetypes and
Number of Disputed Cases*

| State | Tribal Courts | Chief Justices** | State Trial Courts | Attorneys General | State Bar Associations |
|-------|---|--------------------|--|-------------------------------------|------------------------|
| AR | ICWA (1) | No report | ICWA (6) Economic and Commercial (1) Taxation (1) Tort (1) Hunting and Fishing (24) | ICWA (6) | No report |
| AZ | Domestic Relations (4) ICWA (3) Economic and Commercial (3) Tort (1) Contract (16) Other (1) | No report | Domestic Relations (25) ICWA (2) Economic and Commercial (1) Tort (2) Contract (9) Hunting and Fishing (1) Other (4) | No report | No report |
| CA | Contract (1) | No report | No problems listed | No problems listed | No report |
| CO | No report | No report | Domestic Relations (2) Contract (1) | ICWA (1) Hunting and Fishing (1) | No problems listed |
| CT | No report | No problems listed | No report | No problems listed | No report |
| FL | ICWA (5) | No problems listed | No problems listed | No report | No report |
| ID | Taxation (1) Tort (5) Contract (1) Other (1) | No report | No report | No report | No report |

* A number of Chief Justice surveys were transmitted to state trial court judges for completion without a statewide report being completed and returned.

**For this analysis, a response that there has been a disputed jurisdiction casetype concern but which failed to report the number of cases for this casetype has been counted as one case. A + has been added to the total number of cases for states where a report indicated "at least" the number of cases cited or indicated "several", which was counted as 2+.

Table 1 (continued)
Survey Report of Disputed Jurisdiction Casetypes and
Number of Disputed Cases

| State | Tribal Courts | Chief Justices | State Trial Courts | Attorneys General | State Bar Associations |
|-------|---|---|---|--|---|
| KS | No report | No report | No report | No problems listed | No report |
| LA | No report | No problems listed | No report | No report | No problems listed |
| ME | No problems listed | No problems listed | No report | Domestic Relations (1) Gambling (1) | No report |
| MA | No report | No problems listed | No report | No problems listed | No report |
| MI | Domestic Relations (4) ICWA (2) Other (150) | No report | Domestic Relations (3) Contract (2) Gambling (1) Hunting and Fishing (many) | No problems listed | No report |
| MN | Domestic Relations (4) ICWA (4) Economic and Commercial (1) Taxation (1) Tort (1) Contract (1) Gambling (1) Natural Resources (1) Water Rights (1) Hunting and Fishing (4) Other (2) | No report | No report | ICWA (3+) | No report |
| MS | No report | ICWA (1) | No report | No report | No report |
| MT | Domestic Relations (4) ICWA (15) Economic and Commercial (1) Taxation (1) Tort (1) Contract (1) Gambling (1) Natural Resources (1) Water Rights (1) Hunting and Fishing (1) Other (1) | No report | No report | No problems listed | No problems listed |
| NE | No report | No problems listed | Domestic Relations (1) ICWA (1) Gambling (1) Hunting and Fishing (1) | No report | No report |
| NV | Domestic Relations (2) Other (1+) | No report | No report | No report | No report |
| NM | Domestic Relations (1) ICWA (3) Other (25) | Domestic Relations (2) ICWA (2) Economic and Commercial (2) Taxation (2) Water Rights (2) | No report | No report | Economic and Commercial (1) Tort (1) Water Rights (1) |
| NY | No report | No problems listed | No report | No problems listed | No problems listed |
| NC | Domestic Relations (1) ICWA (1) | Domestic Relations (4) Tort (1) Other (2) | Domestic Relations (12+) ICWA (14) Economic and Commercial (2+) Taxation (1) Tort (1) Contracts (51) Gambling (1) Hunting and Fishing (2+) Other (15) | Domestic Relations (1) ICWA (4) | Answers better provided by court entities |
| ND | Domestic Relations (1) ICWA (1) | Domestic Relations (1) Economic and Commercial (1) Hunting and Fishing (1) Natural Resources (1) | No report | No report | No report |

Table 1 (continued)
Survey Report of Disputed Jurisdiction Casetypes and
Number of Disputed Cases

| State | Tribal Courts | Chief Justices | State Trial Courts | Attorneys General | State Bar Associations |
|-------|---|---|--|--|---|
| OK | Domestic Relations (15) ICWA (25) Economic and Comm. (11) Taxation (26) Contract (1) Gambling (1) Natural Resources (1) | ICWA (4) Taxation (2) Gambling (6) | No report | No report | Answers better provided by court entities |
| OR | No problems listed | No report | No report | No problems listed | No report |
| SD | No report | No report | No report | No report | Domestic Relations (many) ICWA (many) Economic and Commercial (2+) Tort (many) Natural Resources (1) Water Rights (1) Hunting and Fishing (1) |
| TX | No report | No problems listed | No report | No problems listed | No report |
| UT | No report | No report | Domestic Relations (1) ICWA (2) Economic and Comm. (2) Taxation (3) | Domestic Relations (1) ICWA (1) Taxation (2) | Tort (1) Contract (2+) |
| WA | Domestic Relations (27+) ICWA (4+) Tort (1) Contract (1) Natural Resources (1+) | No report | Domestic Relations (2) ICWA (2) Hunting and Fishing (1) | Domestic Relations (1) | No report |
| WI | Domestic Relations (10) ICWA (12) Economic and Comm. (1) Tort (2) Contract (8) | Domestic Relations (6) ICWA (6+) Economic and Commercial (1+) Taxation (3) Gambling (3) Natural Resources (2+) Hunting and Fishing (5+) | No report | Domestic Relations (6) ICWA (12) Economic and Comm. (1) Tort (2) Gambling (7) Natural Resources (2) | |

Total number of responding states = 28

Table 2 aggregates the frequency of disputed jurisdiction casetypes described by the different respondent groups. Indian Child Welfare Act (ICWA) case problems were most frequently cited, with tribal court judges reporting more than half of the total. ICWA cases arise when there is uncertainty or inattention as to the particular court system which 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, with off-reservation Indian children, when state authorities remove Indian children from a reservation without awareness of a tribal court's earlier jurisdiction of 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 are the primary complainants. Domestic relations issues arise as to which court system has jurisdiction for divorce, custody, and support. Certain cases arise when one parent is Indian and one parent is not. 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 and neglect finding, and where the state court may enter a custody order that is challenged. Numerous cases involve child support enforcement: a non-Indian spouse may challenge a tribal court child support order that accompanies a divorce; a reservation Indian may seek to reject a state court's jurisdiction with child support; a band member may seek to reject state court process served on the reservation. There are problems, also, with enforcement on the reservation of a state court domestic violence protection order.

Contract actions were the third most commonly cited casetype, but these cases are reported most frequently by state trial court judges. Contract breaches followed by state suit result in problems with enforcement of judgments and process serving on the reservation. A tribal court may require that the state court judgment be brought in the tribal court to secure enforcement. Short of this, tribal police may refuse to serve state court process. Contract breaches may be by individual Indians or tribal government or business entities.

Other, a catch-all category, totalled the greatest number of concerns 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 are subject to tribal court jurisdiction though the tribal authorities continuously disputed this claim.

Certain "other" cases questioned the court of jurisdiction for juvenile jurisdiction matters and the state arrest of an Indian juvenile on a reservation without tribal court approval. State mental hospital admission of an Indian found mentally ill by a tribal court was challenged in the absence of readjudication by a state court.

Taxation and hunting and fishing disputes were reported frequently. Most typically, tribal governments disputed state taxing authority over bingo, economic enterprises, and an oil and gas severance tax on a reservation. Hunting and fishing disputes involved treaty rights. These and other casetypes, cited by different respondent groups, are summarized in Table 2 below.

Table 2
Frequency of Disputed Jurisdiction Casetypes
Reported by Respondent Groups*

| Casetype | Tribal Courts | Chief Justices | State Trial Courts | Attorneys General | State Bar Associations | Total |
|-------------------------|---------------|----------------|--------------------|-------------------|------------------------|-----------------|
| Domestic Relations | 73+ | 13 | 46+ | 10 | many | 142+ and many |
| ICWA | 76+ | 13+ | 27 | 27+ | many | 143+ and many |
| Economic and Commercial | 18 | 4+ | 6+ | 1 | 3+ | 32+ |
| Taxation | 30 | 7 | 5 | 2 | — | 44 |
| Tort | 12 | 1 | 4 | 2 | 2 and many | 21 and many |
| Contract | 31 | — | 53 | — | 2+ | 86+ |
| Gambling | 4 | 9 | 3 | 8 | — | 24 |
| Natural Resources | 5+ | 3+ | — | 2 | 1 | 10+ |
| Water Rights | 2 | 2 | — | — | 2 | 6 |
| Hunting and Fishing | 6 | 6+ | 29+ and many | 1 | 1 | 43+ and many |
| Other | <u>181+</u> | <u>2</u> | <u>19</u> | <u>—</u> | <u>—</u> | <u>202+</u> |
| TOTAL | 438+ | 60+ | 202+ and many | 53 | 11 and 3 many | 765+ and 4 many |

*For this analysis, a response that there has been a disputed jurisdiction casetype concern but which failed to report the number of cases for this casetype has been counted as one case. A + has been added to the total number of cases for states where a report indicated "at least" the number of cases cited or indicated "several", which was counted as 2+.

Table 3 presents a state-by-state analysis of the 28 states that filed reports. Seven reporting states: Connecticut, Kansas, Louisiana, Massachusetts, New York, Oregon, and Texas cited no disputed jurisdiction cases by any reporting group. A second typology, states reporting disputed jurisdiction cases by one responding group, include California, Florida, Idaho, Maine, Mississippi, Montana, Nebraska, Nevada, and South Dakota. A third typology, states reporting such cases by two responding groups, included Arizona, Colorado, Michigan, Minnesota, North Dakota, and Oklahoma. Three responding groups reported disputed jurisdiction cases in five states: Alaska, New Mexico, Utah, Washington, and Wisconsin. One state, North Carolina, reported disputed jurisdiction cases by four responding groups.

| <p>Table 3</p> <p>Number of Respondent Groups Reporting Disputed Jurisdiction Cases</p> <p>State-by-State Analysis</p> <p>-----</p> |
|---|
| <p>States reporting no disputed jurisdiction cases:</p> <p>CT, KS, LA, MA, NY, OR, TX</p> |
| <p>States reporting disputed jurisdiction cases by one respondent group:</p> <p>CA, FL, ID, ME, MS, MT, NE, NV, SD</p> |
| <p>States reporting disputed jurisdiction cases by two respondent groups:</p> <p>AZ, CO, MI, MN, ND, OK</p> |
| <p>States reporting disputed jurisdiction cases by three respondent groups:</p> <p>AK, NH, UT, WA, WI</p> |
| <p>States reporting disputed jurisdiction cases by four respondent groups:</p> <p>NC</p> |
| <p>Total number of responding states = 28</p> |

Table 4 presents a state-by-state break down of the number of disputed jurisdiction cases reported. Nine states reported from one to ten cases: California, Colorado, Florida, Idaho, Maine, Mississippi, Nebraska, Nevada, and North Dakota. One state, Utah, reported from ten to twenty cases. Two states, Minnesota and Montana, reported from 20 to 30 cases. South Dakota has been categorized as the one state reporting from 30 to 40 cases. Three states, Alaska, New Mexico, and Washington reported from 40 to 50 cases. Five states, Arizona, Michigan, North Carolina, Oklahoma, and Wisconsin reported more than 50 cases.

Table 4
Frequency of Disputed Jurisdiction Cases Reported by All Respondent Groups*
State-by-State Analysis

| | |
|--------------------------------------|--|
| States reporting 1 to 10 cases: | CA (1), CO (5), FL (5), ID (8), ME (2), MS (1), NE (4), NV (3+), ND (6) |
| States reporting 10 to 20 cases: | UT (15+) |
| States reporting 20 to 30 cases: | MN (24+), MT (28) |
| States reporting 30 to 40 cases: | SD ("many" reported for each of 3 casetypes and "several" or no numerical description for 4 casetypes) |
| States reporting 40 to 50 cases: | AK (40), NM (42), WA (40+) |
| States reporting more than 50 cases: | AZ (72), MI (162+), NC (113+), OK (92), WI (90+) |

Total number of states reporting disputed jurisdiction cases = 21

- * For this analysis, a response that there has been a disputed jurisdiction casetype concern but which failed to report the number of cases for this casetype has been counted as one case. A + has been added to the total number of cases for states where a report indicated "at least" the number of cases cited or indicated "several", which was counted as 2+. South Dakota, arguably, is placed in the 30 to 40 case category.

Table 5 describes the frequency of disputed jurisdiction cases by casetype according to the frequency of cases reported by the different states. States reporting 20 to 30 cases cited 11 casetypes, a greater number of different casetypes than states reporting 40 or more cases. All categories of the reporting states cited domestic relations, ICWA, and economic and commercial disputes. Taxation and tort cases were present in five of the six groupings.

Table 5

Frequency of Disputed Jurisdiction Cases by Casetypes

| | |
|--------------------------------------|--|
| States reporting 1 to 10 cases: | Domestic Relations (8) ICWA (9) Economic and Commercial (1) Tort (1) Contract (3) Hunting and Fishing (3) Gambling (2) Natural Resources (1) Other (2) |
| States reporting 10 to 20 cases: | Domestic Relations (2) ICWA (3) Economic and Commercial (2) Taxation (5) Tort (1) Contract (2+) |
| States reporting 20 to 30 cases: | Domestic Relations (7-8) ICWA (19-20) Economic and Commercial (2) Taxation (2) Tort (2) Contract (2) Gambling (2) Natural Resources (2) Water Rights (2) Hunting and Fishing (4-5) Other (3-4) |
| States reporting 30 to 40 cases: | Domestic Relations (many) ICWA (many) Economic and Commercial (2+) Tort (many) Natural Resources (1) Water Rights (1) Hunting and Fishing (1) |
| States reporting 40 to 50 cases: | Domestic Relations (33+) ICWA (24+) Economic and Commercial (4) Taxation (3) Tort (3) Contract (1) Gambling (2) Natural Resources (1+) Water Rights (3) Hunting and Fishing (25) Other (25) |
| States reporting more than 50 cases: | Domestic Relations (91+) ICWA (85+) Economic and Commercial (20+) Taxation (32) Tort (10) Contract (87) Gambling (19) Natural Resources (5) Hunting and Fishing (8+ and many) Other (172) |

Tables 6 and 7 describe the types of cases reported by the eight states that cited the most frequent number of disputes. Table 6 reflects that Alaska's most common problems relate to ICWA and hunting and fishing disputes. New Mexico's greatest number of cases resulted from a county school located on the reservation that sent student violators to a state court rather than a tribal court, expecting more severe sanctions from the former. Alternatively, charges were not filed in the tribal court or the state court. The tribal court believed the approaches taken or not taken by the county school were inappropriate. New Mexico respondents cited various other casetypes that involved few disputed concerns but which were described as serious. Certain of these cases may have been more serious in their implications than the student violators' problems. Domestic relations cases totaled 75 percent of Washington's concerns. ICWA matters were cited second in frequency.

Table 6

Disputed Jurisdiction Cases by State and Casetype Frequency
States Reporting 40 to 50 Cases

| <u>AK (40)</u> | <u>NM (42)</u> | <u>WA (40+)</u> |
|-----------------------------|-----------------------------|--------------------------|
| ICWA (13) | Domestic Relations (3) | Domestic Relations (30+) |
| Economic and Commercial (1) | ICWA (5) | ICWA (6+) |
| Taxation (1) | Economic and Commercial (3) | Tort (1) |
| Tort (1) | Taxation (2) | Contract (1) |
| Hunting and Fishing (24) | Tort (1) | Natural Resources (1+) |
| | Water Rights (3) | Hunting and Fishing (1) |
| | Other (25) | |

For states reporting more than 50 cases, as shown by Table 7, domestic relations and contract problems were most common in Arizona. Michigan reported the greatest number of disputed jurisdiction cases of all states. The 150 cases reported by the Keweenaw Bay Tribal Court, relating to jurisdiction over actions taking place within the exterior boundaries of the reservation, bulwarked the Michigan total. The Michigan state court in Traverse City reported many hunting and fishing disputes, particularly regarding treaty rights for fishing that involved state and federal courts as well as Bureau of Indian Affairs intervention.

Table 7
Disputed Jurisdiction Cases by State and Casetype Frequency
States Reporting More than 50 Cases

| <u>AZ (72)</u> | <u>MI (162+)</u> | <u>NC (113+)</u> |
|------------------------------|------------------------------|------------------------------|
| Domestic Relations (29) | Domestic Relations (7) | Domestic Relations (18+) |
| ICWA (5) | ICWA (2) | ICWA (19) |
| Economic and Commercial (4) | Contract (2) | Economic and Commercial (2+) |
| Tort (3) | Gambling (1) | Taxation (1) |
| Contract (25) | Hunting and Fishing (many) | Tort (2) |
| Hunting and Fishing (1) | Other (150) | Contract (51) |
| Other (5) | | Gambling (1) |
| | | Hunting and Fishing (2+) |
| | | Other (17) |
| <u>OK (92)</u> | <u>WJ (90+)</u> | |
| Domestic Relations (15) | Domestic Relations (22) | |
| ICWA (29) | ICWA (30+) | |
| Economic and Commercial (11) | Economic and Commercial (3+) | |
| Taxation (25) | Taxation (3) | |
| Contract (1) | Tort (5) | |
| Gambling (7) | Contract (8) | |
| Natural Resources (1) | Gambling (10) | |
| | Natural Resources (4) | |
| | Hunting and Fishing (5+) | |

The primary problems found in North Carolina related to contracts. Fifty of the 51 contract cases were reported by a state trial court judge in Bryson City who emphasized service of process and enforcement of judgment problems. Domestic relations and ICWA cases were cited frequently in that state which has but one tribal court. While this tribal court reported just one domestic relations and one ICWA problem, the state chief justice report listed four domestic relations appellate case disputes and six state trial court judges reported domestic relations or ICWA disputes.

Oklahoma's primary problems are taxation, ICWA, and domestic relations matters, as reported by tribal courts, and to a lesser degree gambling and ICWA cases cited in the chief justice report.

Wisconsin's three reporting sources emphasized ICWA (at least 30 cases) and domestic relations concerns (22 cases), while gambling and contract disputes totalled ten and eight respectively.

Table 8 describes the 23 states where one or more respondent groups answered the survey question relating to recognition of court decisions by full faith and credit or comity. Tribal courts quite generally recognized state court judgments. Tribal court respondents indicated, frequently, that while their court systems recognized state court decisions, 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 to tribal court decrees, and both chief justice and attorneys general reports more often than not reported similar state court recognition.

Eight states filed responses to this question from just one reporting group. Ten states provided answers from one or more tribal courts and one of more other respondent groups. In such situations, Florida, North Carolina,

and Oklahoma reported mutually affirmative recognition both by a tribal court and one or more other groups. Essentially similar, affirmative recognition was reported from Arizona and Washington. Four states reported dissimilar responses: in Alaska, Minnesota, New Mexico, and North Dakota, tribal courts provide recognition but no recognition or sometimes recognition was reported by a state official. A California tribal court and state court judge provide recognition, but that state's attorney general answered that recognition was not provided.

Table 8
Survey Responses Relating to Recognition of
Court Decisions by Full Faith and Credit/Comity
State-by-State Analysis

| State | Tribal Courts | Chief Justices* | State Trial Courts | Attorneys General | State Bar Associations |
|-------|--------------------------|-----------------|--------------------|------------------------------------|------------------------|
| AK | Yes | No report** | No | Yes (for recognized tribal courts) | No report |
| AZ | Yes (2) No (1) | No report | Yes (4) No (1) | No report | No report |
| CA | Yes | No report | Yes | No | No report |
| FL | Yes | Do not know | Yes | No report | No report |
| ID | Yes (1) No (1) | No report | No report | No report | No report |
| ME | No report | Yes | No report | Yes | No report |
| MI | No report | No report | Yes | Yes | No report |
| MN | Yes | No report | No report | Sometimes | No report |
| MS | No report | Yes | No report | No report | No report |
| MT | Yes | No report | No report | No report | No report |
| NE | No report | Do not know | Yes | No report | No report |
| NV | Yes (1) No (1) | No report | No report | No report | No report |
| NH | Yes | No | No report | No report | No report |
| NY | No report | Yes | No report | Yes | No report |
| NC | Yes | Uncertain | Yes | Yes | No report |
| ND | Yes | No | No report | No report | No report |
| OK | Yes | Yes | No report | No report | No report |
| OR | Yes | No report | No report | No report | No report |
| SD | No report | No report | No report | No report | Yes |
| UT | No report | No report | Yes | Uncertain | Yes |
| WA | Yes (3) Sometimes (1) | No report | Yes | No report | No report |
| WI | No report | Sometimes | No report | Yes (Menominee Tribe only) | No report |
| WY | No report | No report | No report | No | No report |

Total number of states responding to this question = 23

* A number of Chief Justice surveys were transmitted to state trial court judges for completion without a statewide report being completed and returned.

**"No report", for this analysis indicates either that no report was returned or that a returned report(s) did not respond to the full faith and credit/comity question.

Table 9 expands on this analysis by classifying states according to whether or not there was recognition by tribal courts, by state officials, or no report. The overall dominant typology is that of recognition by tribal courts. Yet tribal courts in four states filed conflicting responses. Just one state, Wyoming, exclusively reports no recognition; the report was filed by the attorney general.

Table 9
Compilation of Survey Responses Relating to Recognition of
Court Decision by Full Faith and Credit/Comity
State-by-State Analysis

1. Recognition by tribal court(s) and state officials: FL, ME, NC, OK
2. Recognition by tribal court(s); no report by state officials: MT, OR
3. Recognition by tribal court(s); recognition by state officials sometimes: MN
4. Recognition by a majority of tribal court(s) and state officials: AZ
5. Recognition by tribal court(s); state officials report both yes and no: AK, CA
6. Split as to tribal courts recognition; state officials recognize: WA
7. Split as to tribal courts recognition; no report by state officials: ID, NV
8. No report by tribal court(s); recognition or sometimes recognition by state officials: MI, MS, NE, NY, SD, UT, WI
9. Recognition by tribal court(s); state officials report no recognition: NM, ND
10. No report by tribal court(s); State officials report no recognition: WY

Total number of responding states = 23

SUMMARY

Seven states: Connecticut, Kansas, Louisiana, Massachusetts, New York, Oregon, and Texas reported no disputed jurisdiction cases. Nine states: California, Colorado, Florida, Idaho, Maine, Mississippi, Nebraska, Nevada, and North Dakota reported from one to ten cases, Utah from ten to 20 cases, Minnesota and Montana from 20 to 30 cases, South Dakota from 30 to 40 cases, Alaska, New Mexico, and Washington from 40 to 50 cases, and Arizona, Michigan, North Carolina, Oklahoma, and Wisconsin more than 50 cases. The range for this latter category is from 72 cases in Arizona to at least 162 cases in

Michigan. Indian Child Welfare Act, domestic relations, and contract action disputes are the three most frequently reported casetypes. And, generally, these are the most frequent casetypes cited by tribal courts, chief justices, state trial court judges, and attorneys general. While different states report some variation as to casetype concerns, and different reporting groups show certain variation as well, efforts by concerned states that seek approaches to resolve conflicts and prevent unnecessary litigation should emphasize these three casetypes but should not be limited to them.

Overall, tribal courts grant recognition to state court judgments. While the majority of state reporting groups indicate state courts similarly provide recognition for tribal court decisions, this is perceived to be true less often by tribal court officials. Dissonance between tribal court recognition and state court system recognition appears more evident in Alaska, Minnesota, New Mexico, and North Dakota.

Officials from both tribal and state court systems provided numerous examples of proposed and effectuated approaches that further understanding, improve communication, and may reduce disputed jurisdiction matters. State legislation authorizing recognition of tribal court decisions according to particularized provisions is one approach that can be useful in this nexus. There are many other approaches to reduce jurisdictional disputes that can be undertaken and should be undertaken particularly in those states, as set forth here, that reflect the greatest number of problem cases.