

TRIBAL WARRANTS ACT (TWA)

[RCW 10.32](#) AND HB 1829

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MAY 2025



The Extradition Clause

[Any] person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

U.S. CONST. art. IV, § 2, cl. 2

Uniform Criminal Extradition Act (1929)

All states have adopted the UCEA outright, or adopted statutes that are very similar

The UCEA is more protective than the Constitution

Application of the Extradition Clause

The Extradition Clause is limited to States (and Territories)

- “Tribal Reservations are not States, and the differences in the form and nature of their sovereignty make it treacherous to import to one notions of pre-emption that are properly applied to the other.”

White Mountain Apache Tribe v. Bracker, 448 U.S. 136 (1980)

- So, states are not bound by the Constitution to apply the requirements of the Extradition Clause to extradition or arrests of defendants who have fled Tribal jurisdiction

Is a State – Tribal custody transfer even “extradition”? What Process is Due?

Tribe to Tribe, Tribe to Federal, and Tribe to State custody transfers have a long history.

When thinking about custody transfers to a Tribe:

- Is it relevant that the warrant subject never leaves the state?
- Does it matter how far within the state the warrant subject is being transferred?
- What if the subject will be detained in a county or city jail off-reservation?
- Frequency of custody transfers makes formal extradition burdensome

A framework for custody transfers would be mutually beneficial, but...

Washington has 29 tribes. Creating 29 government to Governmental agreements is not practical.

A one-size-fits-all, take-it-or-leave-it approach to custody transfer, enacted by statute ignores differences between Tribes.

WHY THIS WORK IS IMPORTANT

A glaring gap in the protection of victims of crime in Indian Country was the lack of enforceability of tribal warrants in Washington States.

- A tribal warrant is not subject to extradition enforcement in Washington State courts.
- This means that an individual who is named in a valid tribal warrant can use the state as a safe haven and not be returned for tribal prosecution or be held accountable for their criminal actions.
- In contrast, Protection Orders are entitled to full faith in credit under VAWA 2013.
- In VAWA 2022, Congress included additional categories of criminal conduct that can be prosecuted by tribes against non-Indians (Special Tribal Criminal Jurisdiction): sexual violence, stalking, sex trafficking, child violence, obstruction of justice, and assaults against justice personnel.



2019: Senator John McCoy introduces Senate Bill 5081, “Indian Fugitive Extradition Act.”

Fall of 2023: A Working Group is established to generate a Bill that everyone could agree on. The Whitener Group was our ‘cruise director.’

Spring of 2024: Bill introduced, Committee Hearings Proceed and the Tribal Warrants Bill becomes the “Tribal Warrants Act.”

Fall of 2024: Working Group reconvenes and recommends changes

Spring of 2025: HB 1829 passed



RCW 10.32.005. FINDINGS

Recognizes that cooperation with Tribal Nations will promote the shared interest in public safety.

- To effectuate this, the bill creates uniform processes by which the state may consistently reciprocate with tribes the return of those individuals who violate tribal law and avoid tribal justice systems.

Recognizes the Constitutional imperative to protect the Due Process rights of defendants and the federal government's recognition of Tribe's that protect these rights.

- In particular, those rights delineated in TLOA ([Tribal Law and Order Act](#)) 25 USC § 1302 (b) through (d).

Recognizes the importance of creating clear statutory duties for peace officers.

RCW 10.32.005.

PURPOSE

“The legislature declares the purpose of this act is to expand cross jurisdictional cooperation so that fugitives from tribal courts cannot evade justice by remaining off reservation in Washington's counties and cities, while ensuring that defendants receive the fullest due process protections.”

RCW 10.32.010: CERTIFIED AND NON- CERTIFIED TRIBES

CERTIFIED TRIBES

Certified a federally recognized tribe located within the borders of the state of Washington that:

-
- (a) may impose a term of imprisonment of greater than one year, or a fine greater than \$5,000, or both, pursuant to the tribal law and order act of 2010, 5 section 234, codified at 25 U.S.C. Sec. 1302; and
 - (b) has agreed not to shelter or conceal offenders against the laws of the state of Washington but to deliver them up to state authorities for prosecution.

Examples:

[Tulalip](#) – They exercise TLOA enhanced sentencing

[Swinomish](#) – They can exercise TLOA enhanced sentencing

RCW 10.32.020: The State AG will maintain a list of Certified Tribes.

Tribal Law and Order Act

Amended the Indian Civil Rights Act limits on tribal court jail sentences to allow up to 3 years incarceration and a \$15,000 fine per offense if the Tribes provides:

- Effective assistance of defense counsel at the Tribe's expense if defendant is indigent;
- Defense Counsel licensed in a jurisdiction with licensing standards, ensures competency, and has rules of professional responsibility;
- Publicly available criminal laws, rules of evidence, and court rules;
- A judge with sufficient law training for a criminal proceeding, who is licensed to practice law by any jurisdiction in the U.S.
- The Tribe must maintain a record of proceedings



Procedure for Certified Tribes



Process for Certification with AG



Minimal State Court Involvement

CERTIFICATION PROCESS

RCW 10.32.020

A certified Tribe must provide certification signed by the Tribe's judicial officer and chief legal counsel, indicating that

- the Tribe meets the requirements of the tribal law and order act of 2010 section 234 and
- has agreed not to shelter or conceal offenders against the laws of the state

The office of the attorney general shall:

- receive certification documentation provided by tribal partners, and
- review the documentation to confirm that it is complete according to the information provided.

The office of the attorney general shall be immune from liability arising out of the performance of duties under this section, except their intentional or willful misconduct.

Certified Tribal Warrants: Minimal State Court Process

No required extradition hearing. A certified tribal warrant is treated exactly like an out-of-county warrant

The certified Tribe either will:

Take custody directly from arresting officer, or

Transport from jail after state holds are released

Suspected fugitives have right to habeas corpus, but the scope is limited to:

(a) Whether the person has been charged with or convicted of a crime by the noncertified tribe;

(b) Whether the person before the court is the person named in the request for extradition; and

(c) Whether the person is a fugitive.

NON- CERTIFIED TRIBES

Non-Certified a federally recognized tribe located within the borders of the state of Washington that is requesting that a tribal fugitive be surrendered to the duly authorized agent of the tribe, but has **not**:

- received approval to exercise jurisdiction under the tribal law and order act of 2010, 35 section 234, codified at 25 U.S.C. Sec. 1302, and
- which has agreed by treaty or practice not to shelter or conceal offenders against the laws of the state of Washington but to deliver them up to state authorities for prosecution.

Example: Quileute – They are not currently able to exercise TLOA enhanced sentencing but should in the near future.

Procedure for Non-Certified Tribes



Similar to Interstate Extradition Hearings



More State Court Involvement than with Certified Tribes

RCW 10.32.030 - 090. PROCEDURE FOR NON- CERTIFIED TRIBES

Law Enforcement arrests on Tribal warrant after confirming with Non-Certified Tribe that will transport. RCW 10.32.030

Local jail holds on investigation for being a Tribal fugitive and gives notice to Tribe. RCW 10.32.030

Non-Certified Tribe provides copy of complaint, affidavit, warrant, or judgment of conviction to AAG or Prosecutor for service on fugitive. RCW 10.32.040.

Extradition Process in Superior Court per RCW 10.32.060 and HB 1829.

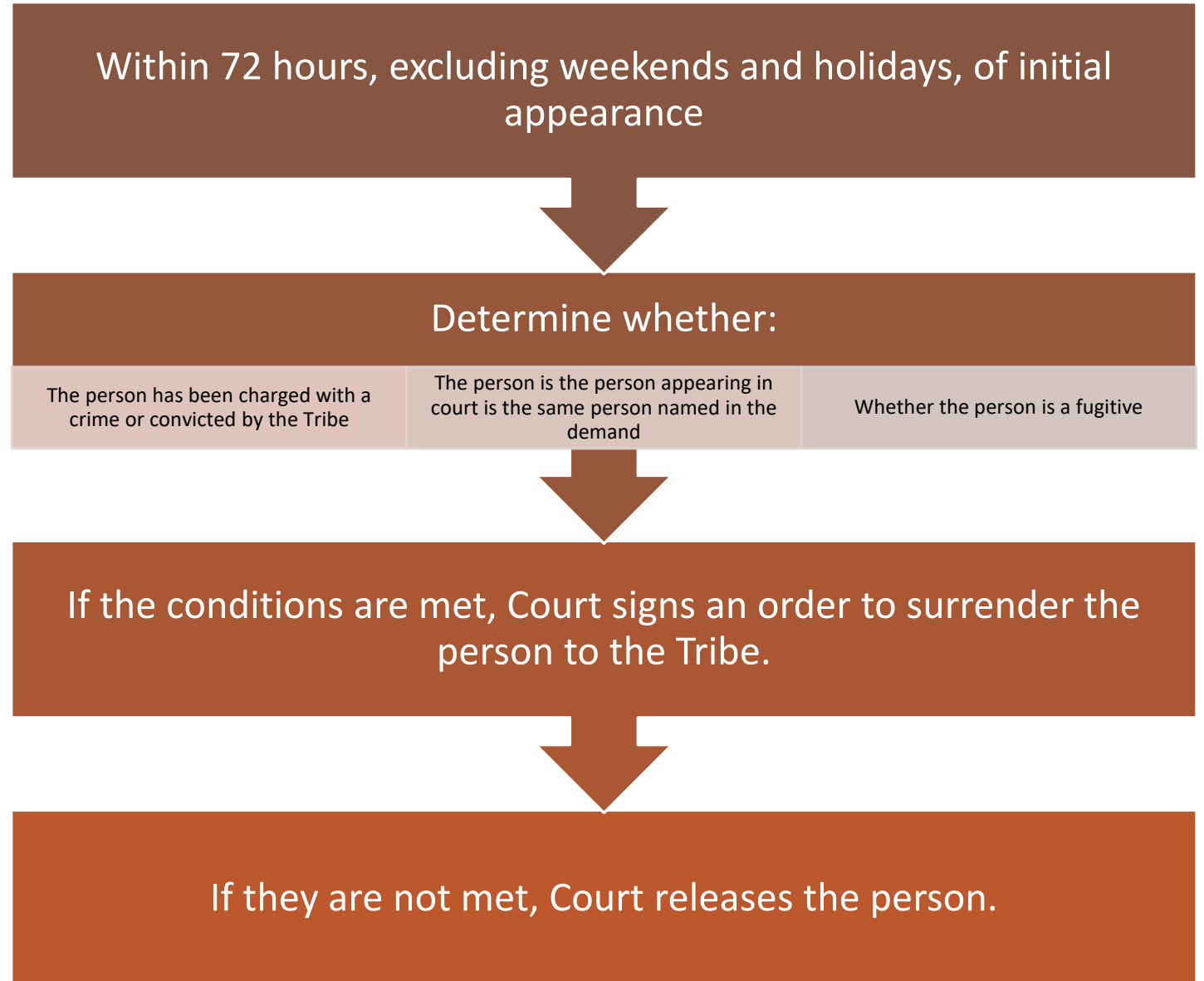
Noncertified Tribe transports the Tribal Fugitive. RCW 10.32.080.

Non-Certified Tribal Warrants: Preliminary Appearance

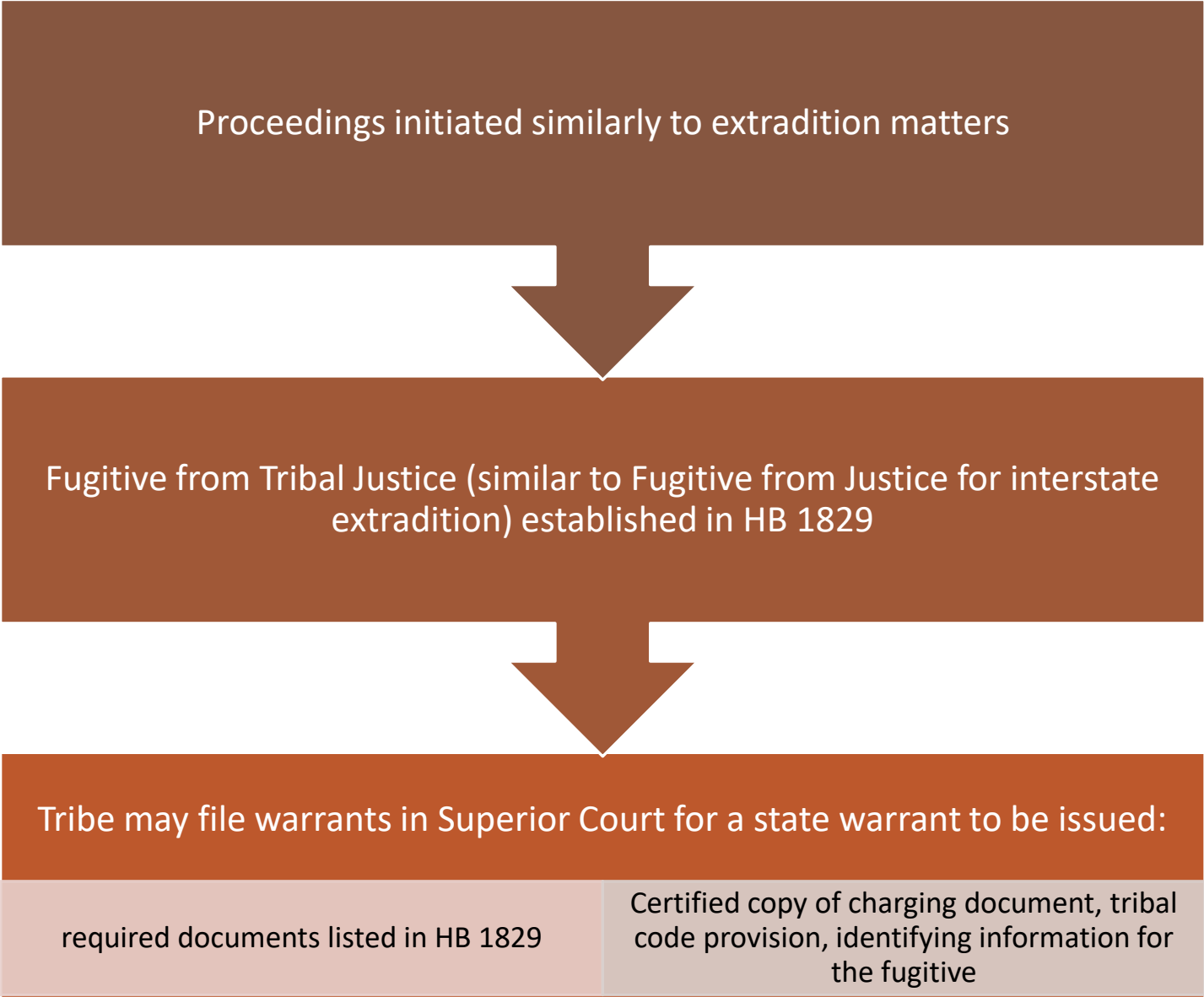
Court Informs Alleged Fugitive of:

- Name of Tribe with arrest warrant
- Basis of arrest warrant
- Right to counsel
- Right to a hearing before transfer of custody to the Tribe

Non-Certified Contested Extradition Hearing



Mechanisms



Considerations for all Tribes



Government to Government
agreements



Crime information Systems



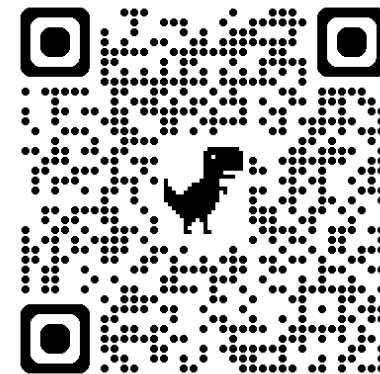
Transportation

RCW 10.32.110. Local Gov't to Gov't Agreements.

RCW 10.32.110. Local Gov't to Gov't Agreements.

- does not diminish the authority of the state or local jurisdictions to enter into mutual aid and other interlocal agreements, concerning the movement of persons within their jurisdiction
- does not diminish the validity or enforceability of any [existing] agreements,
- is not intended to and does not expand or diminish the authority of the state or local jurisdictions to arrest individuals over whom they have jurisdiction within Indian reservations.

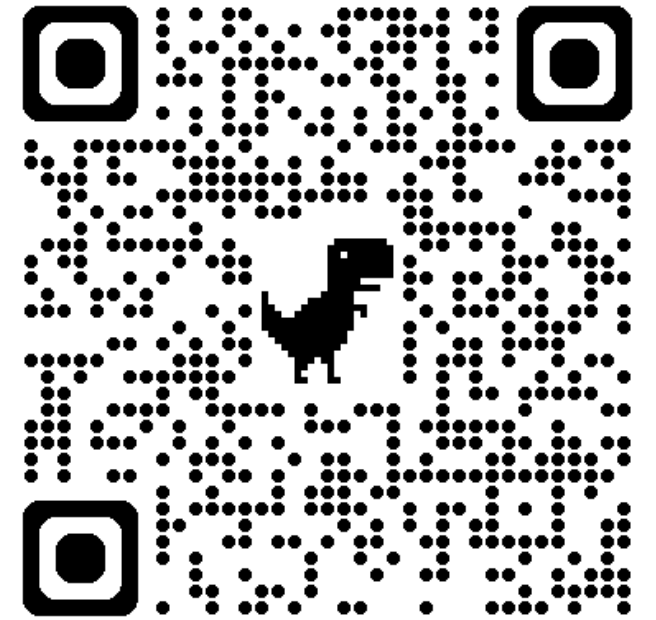
Cooperative law enforcement agreements can provide a legal framework for arrest and detention by local law enforcement that are different from RCW 10.32.



RCW 39.34 Interlocal Cooperation Act

Crime Information Systems

1. Tribe can enter warrants into the National Crime Information Center (NCIC) via Tribal Access (TAP) program.
2. Tribe can enter warrants into the Washington Crime Information Center (WACIC) via the Washington State Patrol's ACCESS program.
3. Tribe can file with Superior Court for a state arrest warrant
4. Person-to-person communication: email/fax/phone/paper



TAP Program

Transport to the Tribe: Certified and Non-Certified Tribes

Transport is arranged and paid
for by the Tribe

Only takes place once other holds
are resolved

Must take place within 72 hours
from release from all other holds

LEGISLATIVE UPDATE

House Bill 1829 delivered to Governor on April 24

Perjury, false swearing, and intimidating or tampering with a witness or juror can now be charged in state court for conduct in a tribal investigation or court proceeding, or sworn under penalty of perjury pursuant to the law of a Tribe.

Clarifies that RCW 10.32 does not apply to juveniles

Grants tribes standing in state court hearings on tribal extradition

Effective 90 days from sine die



HB 1829



HB 1829

SIGNED BY THE
GOVERNOR ON
5/13/2025

IMPLEMENTATION

- Date of implementation: July 1, 2025 Original bill
 - HB 1829 – 90 days from sine die
 - (Approximately July 26, 2025)
- Documents that are in the development phase:
 - Certification Application
 - Bench Card / Judicial checklist
 - Extradition Waiver Form

Certification Checklist

Date Submitted	Click or tap here to enter text.	Tribe	Click or tap here to enter text.
Date Rec'd	Click or tap to enter a date.		
Reviewer	Click or tap here to enter text.		
Tribal Chief Legal Officer / Tribal Attorney:			
Tribal Contact for warrant and extradition verification/ questions (available 24/7 as needed)			

The Right to Effective Assistance of Counsel

Does the Tribe offer effective assistance of counsel?	Yes	No	Comments – Include citation, quotes, page number, links, or other notes for reference.
1) In a criminal proceeding the Tribe provides to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution.	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.

The Right to Indigent Defense Counsel

Does the Tribe offer indigent defense counsel?	Yes	No	Comments – Include citation, quotes, page number, links, or other notes for reference.
2) In a criminal proceeding the Tribe provides to each indigent defendant, at no cost to the defendant, the right to the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.

The Right to a Law-Trained, Licensed Judge

Does the Tribe have a law-trained licensed Judge?	Yes	No	Comments – Include Jurisdictions licensed in and Bar number(s) if applicable
3) In a criminal proceeding the Tribe provides to the defendant the right to a criminal proceeding presided over by a judge who has sufficient legal training to preside over criminal proceedings and is licensed to practice law by any jurisdiction in the United States.	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.

The Right to Publicly Available Laws and Rules

Does the Tribe have publicly available laws?	Yes	No	Comments – Explain how they are publicly available and include online link or attach a hard copy.

4) The Tribe has publicly available criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government.	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.
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Records of the Criminal Proceeding			
In your opinion, does the Tribe maintain a record of criminal proceedings?	Yes	No	Comments – Explain how they are publicly available and include online link or attach a hard copy.
5) In a criminal proceeding in which the Tribe imposes a term of imprisonment of greater than one year, does the Tribe maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding?	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.

Certification of the [Tribe's Name]

1. I am the [Chief Legal Officer] of the [Name of the tribe] ("the Tribe").
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301– 1304.
3. I certify that I have read the Washington State Bill 6146 governing Tribal Warrants and Extradition.
4. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the criminal justice system of the Tribe has adequate safeguards in place to protect defendants' rights, consistent with 25 U.S.C. 1302(b) and as evidenced in the checklist completed above.
5. I acknowledge that it is the Tribe's responsibility to notify the Attorney General's Office of any changes in contact information or certification requirements.

Signature: _____
 (Chief Legal Officer / Tribal Attorney)
 Date: _____
 Printed or Typed Name: _____

Signature: _____
 (Chief Judge)
 Date: _____
 Printed or Typed Name: _____

Certification of the [Tribe's Name] (Review by the Attorney General's Office)

1. I am an [Assistant Attorney General for the State of Washington].
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301– 1304.
3. I certify that I have read the Washington State Bill 6146 governing Tribal Warrants and Extradition.
4. I certify that I have reviewed the above information submitted by the [Tribe] as well as the documents cited.

5. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the criminal justice system of the Tribe has adequate safeguards in place to protect defendants' rights, consistent with 25 U.S.C. 1302(b).

Signature: _____

Date:

Printed or Typed Name:

IN THE _____ COURT FOR THE _____ TRIBE	
_____ TRIBE,	NO.
Plaintiff,	WAIVER OF EXTRADITION
vs.	

Defendant.	

The defendant, _____, having first been properly charged with a crime or having been convicted of a crime in the above-entitled cause number, agrees that in consideration of being granted release prior to trial and/or release prior to sentencing and/or granted a furlough from custody and/or granted permission to leave the boundaries of the _____ Tribe and/or granted release pending appeal, hereby agrees to waive extradition to the _____ Tribe from any state, territory or Sovereign Nation of the United States or from the District of Columbia or from any other point outside of the _____ Tribal boundaries should it be the case that I am found outside of the _____ Tribal boundaries and am subject to return to stand trial in this matter or to serve a sentence imposed in this matter or to address any alleged violations of any conditions of the probation, release and/or sentence imposed in this matter. I also agree that I will not contest any effort to return me to the _____ Tribe. I make this waiver of extradition freely, voluntarily and without compulsion. No one has threatened harm of any kind to me or any other person to cause me to make this waiver. No person has made promises of any kind to cause me to make this waiver, except as set forth in this agreement. I have been informed and fully understand that by waiving extradition, I am waiving the following rights: (a) the right to issuance and service of a warrant of extradition; (b) the right to obtain a writ of habeas corpus under RCW 10.88.290, another state's version of the Uniform Criminal Extradition Act or under _____ Tribal Code; (c) the right to counsel with respect to extradition proceedings; and (d) the opportunity to petition the executive of the asylum jurisdiction for relief from extradition. I have also been informed and fully understand that once I sign this agreement, the waiver of extradition is irrevocable.

_____ Attorney for Defendant WSBA No. _____ Tribal Bar No.	_____ Defendant
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The foregoing waiver was signed by the defendant and acknowledged in open court in the presence of the defendant's lawyer(s) and the undersigned judge. The defendant asserted that he had previously read the waiver. I find that the defendant's decision to waive extradition to be knowingly, intelligently, and voluntarily made.

DATED this _____ day of _____, 19 _____.

JUDGE

Questions?

Chelsea Sayles: tribal.attorney@quileutetribe.com