



JUDICIAL COUNCIL
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

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TRIBAL COURT-STATE COURT FORUM

OPEN MEETING AGENDA

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

THIS MEETING IS BEING RECORDED

Date: August 20, 2015
Time: 12:15–1:15 p.m.
Location: Conference Call
Public Call-In Number 1-877-820-7831 and enter Passcode: 4133250

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(2))

Public Comment

This meeting will be conducted by teleconference. As such, the public may only submit written comments for this meeting.

Written Comment

In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to forum@jud.ca.gov or mailed or delivered to 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Jennifer Walter. Only written comments received by 12:15 p.m. on August 19, 2015 will be provided to advisory body members.

III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-9)

Item 1

Cochairs Report

- Form GC-310
- [Transfer Agreement Between Dry Creek Rancheria and Sonoma County](#)
- Promoting Indian Law Proficiency for Law Students
- [Judge's Page Newsletter](#) (National CASA and National Council of Juvenile and Family Court Judges)
- Guest Speaker: Ms. Mary Jane Risling, Tribal Consultant, California Department of Social Services

Item 2 (Policies)

[Dollar Gen. Corp. v. Miss. and of Choctaw Indians](#)

Presenter: Hon. Joseph J. Wiseman (National American Indian Courts Judges Association Amicus)

U.S. Supreme Court to consider the question: whether Indian tribal courts have jurisdiction to adjudicate civil tort claims against nonmembers, including as a means of regulating the conduct of nonmembers who enter into consensual relationship with a tribe or its members?

Item 3 (Policies)

[Legislative Proposal- AB445 \(Alejo\)](#)

Presenter: Hon. Lester J. Marston

Item 4 (Partnerships)

Court Administrator Toolkit

Presenters: Ms. Vida Castaneda
Ms. Jennifer Walter

Item 5 (Policies)

Comments in support of the proposed regulations: Indian Child Welfare Act Integration throughout Division 31, ORD No. 0614-05 issued by the California Department of Social Services (CDSS).

Draft regulations can be found at <http://www.dss.cahwnet.gov/ord/PG4808.htm>.

Presenter: Ms. Jennifer Walter

Item 6 (Education)

Forum Educational Work with CJER Governing Board Curriculum Committees

Presenter: Hon. David E. Nelson

Item 7 (Education)

[Beyond the Bench Conference- Tribal/State Workshops](#)

December 1-4, 2015

Anaheim, CA

Presenter: Ms. Vida Castaneda

Beyond the Bench 23: User Experience—a multidisciplinary statewide conference devoted to children, youth, and families in the California court system—will be held the first week in December at the Marriott Hotel in Anaheim. It will bring together over

1,200 participants—including judges, local, state, and tribal court leaders, attorneys, social workers, court users, researchers, policy makers, and other juvenile justice and family-related professionals from across California. Sessions will address core legal issues and related social issues pertaining to juvenile and family law, domestic violence, collaborative courts, tribal court-state court jurisdiction, veterans and military families, incarceration and reentry, mental health, education, human trafficking, trauma-informed practice, community engagement, and racial justice. Emphasizing hope, humanity, and healthy families, the conference will focus on meaningful user-focused physical, remote, and equal access to the justice system for those involved—voluntarily or involuntarily—with the court system.

Item 8 (Partnerships)

[S.T.E.P.S. to Justice- Domestic Violence](#) Status Report

Presenters: Hon. John L. Madigan
Ms. Jennifer Walter

Item 9 (Partnerships)

[S.T.E.P.S. to Justice- Indian Child Welfare Services](#) Status Report

Presenter: Ms. Vida Castaneda

IV. ADJOURNMENT

Adjourn

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY Draft Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF (name): <div style="text-align: right;">(PROPOSED) CONSERVATEE</div>	
PETITION FOR APPOINTMENT OF <input type="checkbox"/> SUCCESSOR PROBATE CONSERVATOR OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE <input type="checkbox"/> Limited Conservatorship	CASE NUMBER: HEARING DATE AND TIME: DEPT.:

1. **Petitioner (name):**

requests that

a. (Name):
(Address):

(Telephone):

be appointed successor conservator limited conservator
of the PERSON of the (proposed) conservatee and Letters issue upon qualification.

b. (Name):
(Address):

(Telephone):

be appointed successor conservator limited conservator
of the ESTATE of the (proposed) conservatee and Letters issue upon qualification.

- c. (1) bond not be required because the proposed successor conservator is a corporate fiduciary or an exempt government agency. for the reasons stated in Attachment 1c.
- (2) bond be fixed at: \$ _____ to be furnished by an authorized surety company or as otherwise provided by law. (Specify reasons in Attachment 1c if the amount is different from the minimum required by Probate Code section 2320.)
- (3) \$ _____ in deposits in a blocked account be allowed. Receipts will be filed.
(Specify institution and location):

- d. orders authorizing independent exercise of powers under Probate Code section 2590 be granted. Granting the proposed successor conservator of the estate powers to be exercised independently under Probate Code section 2590 would be to the advantage and benefit and in the best interest of the conservatorship estate. (Specify orders, powers, and reasons in Attachment 1d.)
- e. orders relating to the capacity of the (proposed) conservatee under Probate Code section 1873 or 1901 be granted. (Specify orders, facts, and reasons in Attachment 1e.)
- f. orders relating to the powers and duties of the proposed successor conservator of the person under Probate Code sections 2351–2358 be granted. (Specify orders, facts, and reasons in Attachment 1f.)
- g. the (proposed) conservatee be adjudged to lack the capacity to give informed consent for medical treatment or healing by prayer and that the proposed successor conservator of the person be granted the powers specified in Probate Code section 2355. (Complete item 9 on page 6.)

Do NOT use this form for a temporary conservatorship.

CONSERVATORSHIP OF <i>(name)</i> :	CASE NUMBER:
CONSERVATEE	

1. h. *(for limited conservatorship only)* orders relating to the powers and duties of the proposed limited successor * conservator of the person under Probate Code section 2351.5 be granted. *(Specify orders, powers, and duties in Attachment 1h and complete item 1j.)*
- i. *(for limited conservatorship only)* orders relating to the powers and duties of the proposed limited successor * conservator of the estate under Probate Code section 1830(b) be granted. *(Specify orders, powers, and duties in Attachment 1i and complete item 1j.)*
- j. *(for limited conservatorship only)* orders limiting the civil and legal rights of the (proposed) limited conservatee be granted. *(Specify limitations in Attachment 1j.)*
- k. orders related to dementia placement or treatment as specified in the *Attachment Requesting Special Orders Regarding Dementia* (form GC-313) under Probate Code section 2356.5 be granted. A *Capacity Declaration—Conservatorship* (form GC-335) and *Dementia Attachment to Capacity Declaration—Conservatorship* (form GC-335A), executed by a licensed physician or by a licensed psychologist acting within the scope of his or her licensure with at least two years experience diagnosing dementia, are filed herewith. will be filed before the hearing.
 (appointment of successor conservator only) will not be filed because an order relating to dementia placement or treatment was filed on *(date)*: . That order has neither expired by its terms nor been revoked.
- l. other orders be granted. *(Specify in Attachment 1l.)*

2. (Proposed) conservatee is *(name)*: *(Telephone)*:
(Present address):

3. a. **Jurisdictional facts** *(initial appointment only)* The proposed conservatee has no conservator in California and is a
 - (1) resident of California and
 - (a) a resident of this county.
 - (b) not a resident of this county, but commencement of the conservatorship in this county is in the best interests of the proposed conservatee for the reasons specified in Attachment 3a.
 - (2) nonresident of California but
 - (a) is temporarily living in this county, or
 - (b) has property in this county, or
 - (c) commencement of the conservatorship in this county is in the best interest of the proposed conservatee for the reasons specified in Attachment 3a.
- b. **Petitioner** *(answer items (1) and (2) and check all other items that apply)*
 - (1) is is not a **creditor** or an agent of a creditor of the (proposed) conservatee.
 - (2) is is not a **debtor** or an agent of a debtor of the (proposed) conservatee.
 - (3) is the proposed successor conservator.
 - (4) is the (proposed) conservatee. *(If this item is not checked, you must also complete item 3f.)*
 - (5) is the spouse of the (proposed) conservatee. *(You must also complete item 6.)*
 - (6) is the domestic partner or former domestic partner of the (proposed) conservatee. *(You must also complete item 7.)*
 - (7) is a relative of the (proposed) conservatee as *(specify relationship)*:
 - (8) is an interested person or friend of the (proposed) conservatee.
 - (9) is a state or local public entity, officer, or employee.
 - (10) is the guardian of the proposed conservatee.
 - (11) is a bank is other entity authorized to conduct the business of a trust company.
 - (12) is a professional fiduciary within the meaning of Business and Professions Code section 6501(f) who is licensed by the Professional Fiduciaries Bureau of the Department of Consumer Affairs. Petitioner's license number is provided in item 1 on page 1 of the attached Professional Fiduciary Attachment. *(Use form GC-210(A-PF)/GC-310(A-PF) for this attachment. You must also complete item 2 on page 2 of that form and item 3d below.)*

* See item 5b on page 4.

CONSERVATORSHIP OF <i>(name)</i> :	CASE NUMBER:
CONSERVATEE	

3. c. **Proposed** **successor conservator** is *(check all that apply)*

- (1) a nominee. *(Affix nomination as Attachment 3c(1).)*
- (2) the spouse of the (proposed) conservatee. *(You must also complete item 6.)*
- (3) the domestic partner or former domestic partner of the (proposed) conservatee. *(You must also complete item 7.)*
- (4) a relative of the (proposed) conservatee as *(specify relationship)*:
- (5) a bank. other entity authorized to conduct the business of a trust company.
- (6) a nonprofit charitable corporation that meets the requirements of Probate Code section 2104.
- (7) a professional fiduciary, as defined in Business and Professions Code section 6501(f). His or her statement concerning licensure or exemption is provided in item 1 on page 1 of the attached *Professional Fiduciary Attachment. (Use form GC-210(A-PF)/GC-310(A-PF) for this attachment.)*
- (8) other *(specify)*:

d. Engagement and prior relationship with petitioning professional fiduciary *(complete this item if petitioner is licensed by the Professional Fiduciaries Bureau.)*

- (1) Statements of who engaged petitioner, or how petitioner was engaged to file this petition, and a description of any prior relationship petitioner had with the (proposed) conservatee or his or her family or friends, are provided in item 2 on page 2 of the attached *Professional Fiduciary Attachment. (Use form GC-210(A-PF)/GC-310(A-PF) for this attachment.)*
- (2) A petition for appointment of a temporary conservator is filed with this petition. That petition contains statements of who engaged petitioner, how petitioner was engaged to file this petition, and a description of any prior relationship petitioner had with the (proposed) conservatee or his or her family and friends.

e. **Character and estimated value of the property of the estate** *(complete items (1) or (2) and (3), (4), and (5)):*

(1) (For appointment of successor conservator only, if complete Inventory and Appraisal filed by predecessor):
Personal property: \$ _____, per Inventory and Appraisal filed in this proceeding on
(specify dates of filing of all inventories and appraisals):

(2) Estimated value of personal property: \$ _____

(3) Annual gross income from

- (a) real property: \$ _____
- (b) personal property: \$ _____
- (c) pensions: \$ _____
- (d) wages: \$ _____
- (e) public assistance benefits: \$ _____
- (f) other: \$ _____

(4) **Total** of (1) or (2) and (3): \$ _____

(5) Real property: \$ _____

- (a) per Inventory and Appraisal identified in item (1).
- (b) estimated value.

f. Due diligence *(complete this item if the (proposed) conservatee is not a petitioner):*

- (1) Efforts to find the (proposed) conservatee's relatives or reasons why it is not feasible to contact any of them are described on Attachment 3f(1).
- (2) Statements of the (proposed) conservatee's preferences concerning the appointment of any (successor) conservator and the appointment of the proposed (successor) conservator or reasons why it is not feasible to ascertain those preferences are contained on Attachment 3f(2).

CONSERVATORSHIP OF <i>(name)</i> :	CASE NUMBER:
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3. g. So far as known to Petitioner, a conservatorship or equivalent proceeding concerning the proposed conservatee has not has been filed in another jurisdiction concerning the proposed conservatee, including a court of an Indian tribe with jurisdiction (see Prob. Code, § 2031(b)).
(If you answered "has," identify the jurisdiction and state the date the case was filed):

4. **(Proposed) conservatee**

a. is is not a patient in or on leave of absence from a state institution under the jurisdiction of the California Department of Mental Health or the California Department of Developmental Services *(specify state institution)*:

b. is receiving or entitled to receive is neither receiving nor entitled to receive benefits from the U.S. Department of Veterans Affairs *(estimate amount of monthly benefit payable)*:

c. is is not able to complete an affidavit of voter registration.

d. is is not, so far as is known to petitioner, a member of a federally recognized Indian tribe.

(If you answered "is," complete items (1)–(4)):

(1) Name of tribe:

(2) Location of tribe *(if the tribe is located in more than one state, the state that is the tribe's principal location)*:

(3) The proposed conservatee does does not reside on tribal land.*

(4) So far as known to petitioner, the proposed conservatee owns does not own property on tribal land.

5. a. Proposed conservatee *(initial appointment of conservator only)*

- (1) is an adult.
- (2) will be an adult on the effective date of the order *(date)*:
- (3) is a married minor.
- (4) is a minor whose marriage has been dissolved.

b. Vacancy in office of conservator *(appointment of successor conservator only. A petition for appointment of a limited conservator after the death of a predecessor is a petition for initial appointment. (Prob. Code, § 1860.5(a)(1).)*

There is a vacancy in the office of conservator of the person estate for the reasons specified in Attachment 5b. specified below.

*"Tribal land" is land that is, with respect to a specific Indian tribe and the members of that tribe, "Indian country," as defined in 18 U.S.C. § 1151.

CONSERVATORSHIP OF <i>(name)</i> :	CASE NUMBER:
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5. d. (Proposed) conservatee voluntarily requests the appointment of a successor conservator.
(Specify facts showing good cause in Attachment 5(d).)
- e. Confidential Supplemental Information (form GC-312) is filed with this petition. (Initial appointment of conservator only. All petitioners must file this form except banks and other entities authorized to do business as a trust company.)
- f. **(Proposed) conservatee** is is not developmentally disabled as defined in Probate Code section 1420. Petitioner is aware of the requirements of Probate Code section 1827.5. (Specify the nature and degree of the alleged disability in Attachment 5f).
6. **Petitioner or proposed** **successor conservator is the spouse of the (proposed) conservatee.**
(If this statement is true, you must answer a or b.)
- a. The (proposed) conservatee's spouse is not a party to any action or proceeding against the (proposed) conservatee for legal separation, dissolution of marriage, annulment, or adjudication of nullity of their marriage.
- b. Although the (proposed) conservatee's spouse is a party to an action or proceeding against the (proposed) conservatee for legal separation, dissolution, annulment, or adjudication of nullity of their marriage, or has obtained a judgment in one of these proceedings, it is in the best interest of the (proposed) conservatee that:
- (1) a successor conservator be appointed.
- (2) the spouse be appointed as the successor conservator.
(If you checked item 6b(1) or (2) or both, specify the facts and reasons in Attachment 6b.)
7. **Petitioner or proposed** **successor conservator is the domestic partner or former domestic partner of the (proposed) conservatee.** (If this statement is true, you must answer a or b.)
- a. The domestic partner of the (proposed) conservatee has not terminated and does not intend to terminate the domestic partnership.
- b. Although the domestic partner or former domestic partner of the (proposed) conservatee intends to terminate or has terminated the domestic partnership, it is in the best interest of the (proposed) conservatee that
- (1) a successor conservator be appointed.
- (2) the domestic partner or former domestic partner be appointed as the successor conservator.
(If you checked item 7b(1) or (2) or both, specify the facts and reasons in Attachment 7b.)
8. **(Proposed) conservatee** (check all that apply)
- a. will attend the hearing AND is the petitioner is not the petitioner AND has has not nominated the proposed successor conservator.
- b. (initial appointment of conservator only) is able but unwilling to attend the hearing AND does does not wish to contest the establishment of a conservatorship, does does not object to the proposed conservator, AND does does not prefer that another person act as conservator.
- c. (initial appointment of conservator only): is unable to attend the hearing because of medical inability. A *Capacity Declaration—Conservatorship* (form GC-335), executed by a licensed medical practitioner or an accredited religious practitioner is filed with this petition. will be filed before the hearing.
- d. (initial appointment of conservator only) is not the petitioner, is out of state, and will not attend the hearing.
- e. (appointment of successor conservator only) will not attend the hearing.
9. **Medical treatment of (proposed) conservatee**
- a. There is no form of medical treatment for which the (proposed) conservatee has the capacity to give an informed consent.
- b. A *Capacity Declaration—Conservatorship* (form GC-335) executed by a licensed physician or by a licensed psychologist acting within the scope of his or her licensure, stating that the (proposed) conservatee lacks the capacity to give informed consent for any form of medical treatment and giving reasons and the factual basis for this conclusion,
 is filed with this petition. will be filed before the hearing. will not be filed for the reason stated in c.
- c. (appointment of successor conservator only) The conservatee's incapacity to consent to any form of medical treatment was determined by order filed in this matter on *(date)*:
That order has neither expired by its terms nor been revoked.
- d. (Proposed) conservatee is is not an adherent of a religion that relies on prayer alone for healing, as defined in Probate Code section 2355(b).

CONSERVATORSHIP OF <i>(name)</i> :	CASE NUMBER:
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10. **Temporary conservatorship**

Filed with this petition is a *Petition for Appointment of Temporary Conservator* (form GC-111).

11. **(Proposed) conservatee's relatives**

The names, residence addresses, and relationships of the spouse or registered domestic partner and the second-degree relatives of the (proposed) conservatee (his or her parents, grandparents, children, grandchildren, and brothers and sisters), so far as known to petitioner, are

- a. listed below.
- b. not known, or no longer living, so the (proposed) conservatee's deemed relatives under Probate Code section 1821(b) (1)–(4) are listed below.

	<u>Name and relationship to conservatee</u>	<u>Residence address</u>
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		
(8)		
(9)		
(10)		
(11)		
(12)		
(13)		
(14)		
(15)		
(16)		

Continued on Attachment 11.

CONSERVATORSHIP OF <i>(name)</i> : <div style="text-align: right;">CONSERVATEE</div>	CASE NUMBER:
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12. **Confidential conservator screening form**

Submitted with this petition is a *Confidential Conservator Screening Form* (form GC-314) completed and signed by the proposed successor conservator. *(Required for all proposed conservators except banks and trust companies.)*

13. **Court investigator**

Filed with this petition is a proposed *Order Appointing Court Investigator* (form GC-330).

14. Number of pages attached:

Date:

(TYPE OR PRINT NAME OF ATTORNEY FOR PETITIONER)

▶

(SIGNATURE OF ATTORNEY FOR PETITIONER)

(All petitioners must also sign (Prob. Code, § 1020; Cal. Rules of Court, rule 7.103).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PETITIONER)

▶

(SIGNATURE OF PETITIONER)

(TYPE OR PRINT NAME OF PETITIONER)

▶

(SIGNATURE OF PETITIONER)

TRANSFER TO TRIBAL COURT OPERATING AGREEMENT
Between Dry Creek Rancheria Indian Child Welfare Department
And Sonoma County Human Services Department

I. Introduction

In cases involving an Indian child, the Dry Creek Rancheria Band of Pomo Indians (the Tribe) may petition the Superior Court of Sonoma County Juvenile Court (Sonoma County Juvenile Court) to transfer a case to the Dry Creek Rancheria Tribal Court (Dry Creek Tribal Court). This Transfer to Tribal Court Operating Agreement (TTC Agreement) provides guidelines for the Dry Creek Rancheria Indian Child Welfare Department (Dry Creek ICW) and Sonoma County Human Services Department, Family Youth and Children's Division (FY&C) to follow regarding the process of transferring a case to the Dry Creek Tribal Court. These guidelines will ensure that applicable cases transfer in a timely, efficient way and according to all applicable laws and rules of court.

II. General Provisions

- The Courts, both Dry Creek Tribal Court and Sonoma County Juvenile Court, have the final decision over which cases will transfer to the Tribal Court.
- The Sonoma County Juvenile Court must grant all petitions to transfer unless the Court finds that good cause exists not to transfer the proceedings.
- This TTC Agreement provides guidelines for transfer only between the Sonoma County Juvenile Court and the Dry Creek Tribal Court and not any other tribal or county courts or jurisdictions.
- Dry Creek ICW and FY&C developed these guidelines through consultation and collaboration. Further collaboration may be required to resolve any conflicts that may arise relating to these guidelines.
- Nothing in these guidelines shall supersede the safety of any child.

III. Early Communications Regarding Petition to Transfer

- a. Meeting of Parties to Discuss Possible Transfer
Parents, Indian Custodians and the Tribe are entitled to petition to transfer ICWA cases to Dry Creek Tribal Court. Either Dry Creek Tribal Court or Sonoma County Juvenile Court may deny these requests. Additionally, either parent can veto the transfer to Dry Creek Tribal Court. Minors cannot veto a transfer but may object, via their counsel, to a petition to transfer to Dry Creek Tribal Court. FY&C may also object to a petition to transfer.

In order to avoid unnecessary expense of time and resources, the parties to the ICWA case will meet to discuss the possibility of the case transferring as soon as it is known that any party is considering filing a petition to transfer or has filed a petition to transfer. [See c. Notice of Intent to Petition to Transfer below]. The meeting will include Dry Creek ICW, FY&C, and whenever possible, the parent(s), their counsel and minors' counsel. FY&C will request a continuance whenever needed in order to

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hold this meeting prior to the next hearing on the ICWA case in Sonoma County Juvenile Court.

- b. **File Review**
Prior to Dry Creek ICW filing a petition to transfer to Dry Creek Tribal Court, or upon learning that another party has filed a petition to transfer or intends to file a petition to transfer, Dry Creek ICW will send a request for a file review to FY&C in writing, including the name of the case and the case number. FY&C will make the file available for review by Dry Creek ICW. Dry Creek ICW can request a continuance in order to have time to review the file and determine if the Tribe supports transfer prior to the next hearing in Sonoma County Juvenile Court.

- c. **Notice of Intent to Petition to Transfer**
Prior to filing a petition to transfer to Dry Creek Tribal Court, Dry Creek ICW will serve all parties with a Notice of Intent to Petition to Transfer (Notice of Intent) the case to Dry Creek Tribal Court. The Notice of Intent will include a proposed meeting date, time and location to discuss the transfer request and process. [See Exhibit A: Sample Notice of Intent]

- d. **Pre-Petition Notice of Opposition**
FY&C will notify Dry Creek ICW within 10 business days of receiving the Notice of Intent to Petition whether they intend to oppose the petition to transfer. If FY&C does intend to file an opposition to transfer, the parties shall discuss FY&C's position in advance of filing an opposition to determine if FY&C's concerns with transferring the case can be resolved.

IV. Filing Petition to Transfer and Response

- a. **Filing a Petition to Transfer**
Dry Creek ICW will file petitions to transfer using Judicial Council Form ICWA-050 *Notice of Petition and Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction* and attach written documentation showing willingness to accept transfer of the case. [See Exhibit B: Sample Petition with attached Sample Court Order]

- b. **Opposing a Petition to Transfer**
 - i. **Burden of Establishing Good Cause**
Sonoma County Juvenile Court must grant the petition to transfer unless the court finds good cause not to transfer the proceeding. In compliance with California Rules of Court rule 5.483(f), the burden of establishing good cause to deny the petition to transfer is on the party opposing the transfer. If the

TRANSFER TO TRIBAL COURT OPERATING AGREEMENT
Between Dry Creek Rancheria Indian Child Welfare Department
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court believes or any party asserts that good cause to deny the petition to transfer exists, the reasons for that belief or assertion must be stated in writing, in advance of the hearing, and made available to all parties who are requesting the transfer, and the petitioner must have the opportunity to provide information or evidence in rebuttal of the belief or assertion.

ii. Good Cause Not to Transfer

Socioeconomic conditions and the perceived adequacy of tribal social services or judicial systems may not be considered in a determination that good cause exists. Good cause not to transfer the proceeding may exist if:

- a) The proceeding was at an advanced stage when the petition to transfer was received and the petitioner did not file the petition within a reasonable time after receiving notice of the proceeding, provided the notice complied with section 224.2 of the WIC. It shall not, in and of itself, be considered an unreasonable delay for a party to wait until reunification efforts have failed and reunification services have been terminated before filing a petition to transfer.
- b) The Indian child is over 12 years of age and objects to the transfer.
- c) The parents of the child over five years of age are not available and the child has had little or no contact with the child's tribe or members of the child's tribe.
- d) There are other circumstances specific to the case that Sonoma County Juvenile Court finds rise to the level of good cause not to transfer.

iii. Opposition to Transfer

FY&C shall assert in writing in a pleading entitled "Opposition to Transfer to Tribal Court" the reasons they believe that good cause exists to deny the petition to transfer.

iv. Filing and Service

FY&C shall file with the court and serve on the parties the Opposition to Transfer to Dry Creek Tribal Court at least ten (10) days in advance of the hearing so that Dry Creek ICW may have time to prepare a response.

TRANSFER TO TRIBAL COURT OPERATING AGREEMENT
Between Dry Creek Rancheria Indian Child Welfare Department
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- V. Order on Petition to Transfer (California Rules of Court rule 5.483(g))**
- a. Sonoma County Juvenile Court Order Denying/Granting Petition
The court must issue its final order on the Judicial Council Form ICWA-060 *Order on Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction*. [See Exhibit C. Order on Petition]
 - b. Dry Creek Tribal Court Order Accepting Jurisdiction and Custody Transfer
Following the hearing on the petition to transfer, if the transfer is granted, Dry Creek ICW shall produce an order signed by Dry Creek Tribal Court Judge stating that Dry Creek Tribal Court has accepted the transfer of jurisdiction and designating a tribal representative to take physical custody of the child.
- VI. Procedures After Transfer - Transfer Granted**
- a. Copy of FY&C File
Once the Sonoma County Juvenile Court grants a petition to transfer, FY&C shall deliver a copy of the entire file regarding the current case, including all relevant CWS/CMS info not otherwise in the file, and all history regarding siblings and half siblings. If delivered via mail, these documents will be sent return receipt requested to Dry Creek ICW. If hand delivered, Dry Creek ICW will sign a receipt for the documents.
 - b. Dry Creek Tribal Court Case Number
Dry Creek ICW shall provide FY&C confirmation in writing that the case has been entered into the Dry Creek Tribal Court System and provide the Dry Creek Tribal Court Case number for the case.
 - c. Update Case Status in CWS/CMS
FY&C will update the CWS/CMS system to display that the case has been transferred to the Dry Creek Tribal Court. A telephone number for Dry Creek ICW and Dry Creek Tribal Court will be included.
- VII. Procedures After Transfer - Transfer Denied**
- a. Resume ICWA Compliance in Sonoma County Juvenile Court
A case that is denied transfer to Dry Creek Tribal Court is still an ICWA case in Sonoma County Juvenile Court. ICWA shall apply to the remainder of the case whether the Tribe continues to participate in the case or not. The parties shall continue to collaborate in the best interest of the child for the duration of the case.

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And Sonoma County Human Services Department

VIII. Procedures for Referral After Transfer to Tribal Court

a. Notice of Referral

If FY&C receives a referral on a case that has been transferred to tribal court, FY&C will contact Dry Creek ICW immediately via the telephone number provided in the CWS/CMS system. If it is afterhours or the call reaches a voicemail, FY&C will leave a message alerting Dry Creek ICW to the referral, including all information necessary to investigate and requesting confirmation that the child is still under the Dry Creek Tribal Court jurisdiction. Dry Creek ICW will respond to the voicemail as soon as possible confirming jurisdiction and receipt of the referral information.

b. Joint Investigation – Siblings

If FY&C receives a referral relating to a sibling of a child whose case was transferred to Dry Creek Tribal Court, FY&C and Dry Creek ICW will conduct a joint investigation. After collaborating on the initial investigation, the parties will determine whether to file an Indian child custody petition and which court to file in.

c. Emergency Referrals/No Response

If the referral is an emergency and/or FY&C has not heard from the tribe in two (2) hours after leaving a message regarding the referral, Sonoma County CWS will provide emergency services pursuant to WIC § 305.5(a) & (f), including removal if necessary to prevent imminent physical damage or harm to the child. Any emergency removal or placement will terminate immediately upon any of the following conditions:

- i. The threat of imminent physical damage or harm has ended and the child can be safely released to a parent, guardian or Indian Custodian.
- ii. Dry Creek ICW has contacted FY&C and confirmed ongoing jurisdiction in the Dry Creek Tribal Court and FY&C and Dry Creek ICW have arranged for Dry Creek ICW to resume physical custody of the child under the ongoing jurisdiction of the Dry Creek Tribal Court.

IX. Procedures to Ensure Uninterrupted Benefits

FY&C and Dry Creek ICW shall work together, before and after transfer, to ensure that the child and related parties continue to receive any benefits that they may remain eligible for once the case transfers.

TRANSFER TO TRIBAL COURT OPERATING AGREEMENT
Between Dry Creek Rancheria Indian Child Welfare Department
And Sonoma County Human Services Department

X. Transferring to Sonoma County Juvenile Court

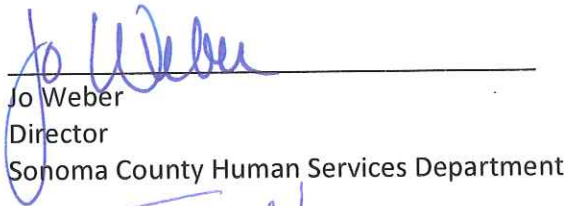
- a. Lack of Governing Rule or Law
From time to time, Dry Creek Tribal Court may decide that it is necessary to transfer a case to Sonoma County Juvenile Court. Absent any governing Federal, California, or Tribal rules or laws the parties agree to treat the case as a new referral according to the process set out below in order to ensure the safe and efficient transfer of cases to Sonoma County Juvenile Court.
- b. Dry Creek ICW Referral to FY&C
Dry Creek ICW will make a referral to FY&C stating that Dry Creek Tribal Court is seeking to relinquish jurisdiction to the Sonoma County Juvenile Court and that it is the opinion of the Dry Creek Tribal Court and Dry Creek ICW that there is a need for FY&C to re-open the case and state the reasons why.
- c. Investigation Determination
FY&C will evaluate the referral and determine whether or not to initiate an investigation.
 - i. If FY&C decides not to initiate an investigation, they will notify Dry Creek ICW. Dry Creek Tribal Court will then decide whether or not to dismiss the case.
 - ii. If FY&C decides to initiate an investigation, the parties will meet and confer to determine how to proceed with the investigation jointly. Dry Creek ICW will assist FY&C in the initial investigation in any way possible, including making available all Dry Creek Tribal Court files and Dry Creek ICW files and reports.
- d. Petition Determination
Following any investigation, FY&C will make a decision whether or not to file a petition in Sonoma County Juvenile Court. FY&C will inform Dry Creek ICW of their decision as soon as possible.
 - i. If FY&C decides to file a petition the Dry Creek Tribal Court will issue an order dismissing the case in tribal court effective the same day FY&C files a petition in Sonoma County Juvenile Court. To the extent possible, Dry Creek ICW will recommend findings and orders consistent with the findings and orders that are required in Sonoma County Juvenile Court for the Dry Creek Tribal Court to include in its order dismissing the case.

TRANSFER TO TRIBAL COURT OPERATING AGREEMENT
Between Dry Creek Rancheria Indian Child Welfare Department
And Sonoma County Human Services Department

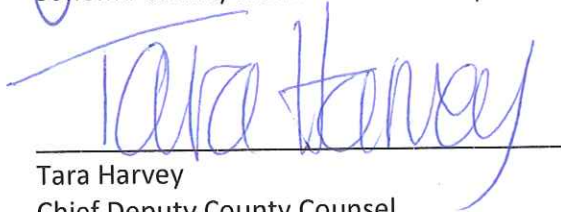
- ii. If FY&C does not file a petition, Dry Creek Tribal Court will then decide whether to dismiss the case.

 8/22/11

Harvey Hopkins
Board of Directors
Dry Creek Rancheria Band of Pomo Indians



Jo Weber
Director
Sonoma County Human Services Department



Tara Harvey
Chief Deputy County Counsel
County of Sonoma

August 13, 2015

Ms. Gayle E. Murphy
Senior Director, Admissions
The State Bar of California
180 Howard Street
San Francisco, California 94105

Dear Ms. Murphy:

On behalf of the Tribal Court–State Court Forum, we are writing to request that the California State Bar Examination (Bar) include American Indian law as either one of the topics on the essay and/or the multistate bar exam (MSBE), or as part of the civil procedure topic of the Bar. We recommend this change because it will recognize the legal and historical frameworks in which Tribal Nations and the State of California operate, prepare practitioners who may encounter American Indian legal issues, and improve government-to-government relations, as well as local tribal and non-tribal relationships.

Tribal nations are a vital part of the legal framework and economic structure in California.

Legal Framework

California is home to 110 federally recognized American Indian Nations; 725,000 California citizens identify as American Indian or Alaska Native (AI/AN), which represents 14% of all AI/AN population in the U.S., more than in any other State. Forty (40) of these tribal nations have tribal courts or are served by tribal court coalitions.

Tribes are “distinct, independent political, communities retaining their original natural rights” in matters of local self-government.ⁱ Tribes remain a “separate people, with the power of regulating their internal and social relations,”ⁱⁱ and “the right . . . to make their own laws and be ruled by them.”ⁱⁱⁱ

Tribal subject matter jurisdiction over civil and criminal matters arising in Indian country depends on the following legal inquiries and analyses: (1) whether the defendant is tribal member or nonmember; (2) whether the events at issue arose on fee, trust, or allotted lands; and (3) whether federal laws, such as Public Law 280 or the Major Crimes Act, give tribal, state, and/or federal courts authority to adjudicate the dispute. If lawyers understood the legal concepts of tribal self-governance and tribal jurisdiction, there would be fewer disputes and improved government-to-government dialogue and relations. Even if a California lawyer never practices in tribal court or represents an American Indian client, the significant overlap between state and tribal court jurisdiction indicates the need for all lawyers licensed in the State of California to have a basic understanding of the interrelationships among and boundaries of these court systems.

Economic Structure

American Indian Nations are a substantial and growing part of the California economy, generating significant economic activity through local tourism spending, the substantial number of jobs for local residents, and tax revenues for the state.^{iv} Tribal gaming operations in California generated an estimated \$8 billion in economic output in 2012, of which \$2.9 billion represented earnings by California workers, and supported over 56,000 jobs statewide. Tribal non-gaming operations in California generated an estimated \$2.3 billion in economic output in 2012, supported over 14,800 jobs statewide, and added \$1.2 billion in value to the state economy – of which \$804.6 million represented income for California workers. Non-gaming operations stimulated nearly \$100 million in economic activity for real estate firms, nearly \$50 million for wholesale trade firms, and over \$35 million for restaurants and bars throughout California. Statewide revenue sharing for tribes without casinos generated an estimated \$100.9 million in economic output for California and supported 433 jobs statewide in 2012. Charitable contributions from gaming tribes and their casinos totaled \$36.6 million in 2012, generated an estimated \$109.2 million in economic output, and supported an estimated 1,038 jobs statewide.

In conclusion, by testing American Indian law, the California State Bar would have a significant positive social impact. Not only would its inclusion ensure the competence and professionalism of new attorneys, but also it would make visible the Tribal Nations that are within the State's jurisdictional boundaries, and ensure that the tribal court justice systems and the state judicial branch recognize and enforce one another's judgments.

The California State Bar would be joining a number of states that, in recent years, added American Indian law to their states' bar examinations. The States of New Mexico, Washington, and South Dakota have added American Indian law as a subject tested on the essay portion of their bar examinations. The National Congress of American Indians, the largest and oldest national organization of American Indian and Alaska Native tribal governments, the National Native American Bar Association, and regional tribal organizations have also called for the inclusion of American Indian law on state bar exams, including the MSBE.

Thank you for your consideration of this request. If we can furnish you with additional information, please do not hesitate to us.

Sincerely,

ⁱ *Worcester v. Georgia*, 31 U.S. 515 (1832).

ⁱⁱ *U.S. v. Kagama*, 118 U.S. 375 (1886).

ⁱⁱⁱ *Williams v. Lee*, 358 U.S. 217, 220 (1959).

^{iv} 2014 California Tribal Gaming Impact Study by Beacon Economics. All references to economic statistics are from this study and can be found at this link: <http://www.yourtribaleconomy.com/media/uploads/2014-California-Tribal-Gaming-Impact-Study.pdf>

“A Dollar Here, A Dollar There . . . Making Sense of Tribal Court Jurisdiction After Dolgencorp (Updated)”

By: Joseph J. Wiseman, Chief Judge,
Northern California Intertribal Court System,
and Jacquelyn E. Larson, Esq.

In *Dolgencorp, Inc. v. Miss. Band of Choctaw Indians*, 732 F.3d 409 (5th Cir. 2013),¹ the Fifth Circuit applied *Montana v United States*, 450 U.S. 544 (1981), to find that the Choctaw tribal court had civil jurisdiction over a non-tribal company in a tort case arising from the sexual molestation of a tribal member hired by a store run by the company on tribal land.

John Doe, a thirteen-year-old tribe member, sued in tribal court Dolgencorp, Inc. and Dollar General Corp, as well as the individual Dale Townsend, alleging that Townsend sexually molested Doe while Doe was working at Dolgencorp’s store on tribal lands. Doe was assigned to the Dollar General store pursuant to a job-training program operated by the tribe known as the Youth Opportunity Program (“YOP”). Townsend, as manager of the store, agreed to participate in the YOP. After being sued in tribal court on the basis of respondeat superior and negligent hiring, Dolgencorp brought an action in the district court seeking to enjoin John Doe from adjudicating tort claims against Dolgencorp in the Choctaw tribal court.

Civil jurisdiction is determined by applying *Montana v United States*, 450 U.S. 544 (1981). In *Montana*, the Supreme Court articulated the general rule that the sovereign rights of Indian tribes as a nation within the federal United States have necessarily been limited to *not* include the right “to determine their external relations. . . . They involve *only the relations among members of a tribe.*” *Id.* at 563 (emphasis in original). When adjudicating over non-members, the Court found only two exceptions that would allow tribal jurisdiction. The tribe may adjudicate over 1) nonmembers who “enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements”; and 2) nonmembers’ conduct “on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.” *Id.* at 565-566.

¹ Opinion withdrawn and substituted opinion entered at *Dolgencorp, Inc. v. Miss. Band of Choctaw Indians*, 746 F.3d 167 (5th Cir. 2014). As noted below, the only difference appears to be that the substituted opinion omits one sentence. Petition for Certiorari granted June 2015.

In *DolgenCorp*, the Fifth Circuit found that the first exception under *Montana* applied. The Court found that Doe was essentially an unpaid intern, and that that, therefore, the tribe's relationship with DolgenCorp was the type of consensual relationship giving rise to tribal jurisdiction, as required by *Montana*.² Even if the consensual relationship had to be "of a commercial nature," as argued by DolgenCorp, the Fifth Circuit found that the relationship at issue here was "unquestionably" that of a "commercial nature." Moreover, since Doe was seeking to hold DolgenCorp liable for conduct that happened because of the YOP and DolgenCorp's placement of Doe in the store on tribal lands, there was an obvious nexus between DolgenCorp relationship with the tribe and Doe's tort claims.

DolgenCorp argued that *Plains Commerce Bank v Long Family Land and Cattle Co., Inc.*, 554 U.S. 316 (2008), added an extra element before tribal civil jurisdiction could attach: a showing that the specific relationships "implicate tribal governance and internal relations." In *Plains Commerce*, the Supreme Court found no tribal civil jurisdiction, despite the fact that the case was framed as a tort case, which arguably would fall under the "consensual relationship" exception of *Montana*. Nevertheless, the Supreme Court concluded that the case was really an impermissible effort by the tribal court to regulate the sale of non-Indian fee land on the reservation. *Id.* at 330. The *Plains Commerce* Court noted that the "consensual relationship" exceptions apply only to nonmember conduct inside the reservation that implicates the tribe's rights. *Id.*

The Fifth Circuit held that there was no requirement under *Plains Commerce* to show "that one specific relationship, in itself, 'intrude[s] on the internal relations of the tribe or threaten[s] self-rule.'" The Fifth Circuit noted that it was hard to imagine how any single consensual relationship between a tribe and one business could ever have such an impact, and acknowledged that a tribe's ability to regulate commercial relationships "is plainly central to the tribe's power of self-government." The Fifth Circuit also concluded that any discussion in *Plains Commerce* of tribal authority to regulate nonmember conduct was dicta, since the *Plains Commerce* result was based on a rule that a tribe cannot regulate the sale of land owned by a non-member.

² The district court held that because Townsend personally had not entered into any consensual relationship with either the tribe or Doe, the tribal court had no jurisdiction over Townsend.

Finally, the Fifth Circuit held that a request for punitive damages by a plaintiff in tribal court does not divest the tribal court of jurisdiction. *DolgenCorp* argued that because the inherent sovereign authority of Indian tribes does not include criminal jurisdiction over non-Indians, Indian tribes "do not have inherent jurisdiction to try and to punish non-Indians" (quoting *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 195 (1978)). However, the Fifth Circuit found that criminal punishment and punitive damages are distinct enough, and that there was no authority holding that Indian tribes are categorically prohibited from imposing punitive damages on nonmembers.

The dissent argues that this is the first time that a federal court upheld tribal court tort jurisdiction over a non-Indian, based on a consensual relationship, without finding "that jurisdiction is 'necessary to protect tribal self-government or to control internal relations.'" (quoting *Montana*).

A. Amended Opinion

The *DolgenCorp* case was amended on March 14, 2014, at 732 F.3d 409, wherein the Fifth Circuit withdrew the previous opinion and substituted a new opinion. The only difference appears to be that the new opinion omits one line of the old opinion, which stated: "We agree with the district court's conclusion that, under *Montana*, 'disputes arising from member-nonmember or tribe-nonmember consensual relationships are deemed as a matter of law to impact tribal rights of self-government sufficient to permit the exercise of tribal court jurisdiction to adjudicate such disputes.'" 732 F.3d 409 at 416-417. The Fifth Circuit apparently no longer agrees with that categorical rule.

B. Post *DolgenCorp* Cases

Three other Circuits to date (as of July 28, 2015) have used *DolgenCorp* in deciding whether tribal court jurisdiction exists. Despite the fact that *DolgenCorp* found that any discussion by *Plains Commerce* of tribal authority over nonmembers under *Montana* was dicta, the two other Circuit cases use *DolgenCorp* to further define *Plains Commerce*'s holding that the consensual relationship under the first *Montana* exception must implicate the tribe's ability to govern itself.

1. Seventh Circuit - *Jackson v. Payday Fin., LLC*

The Seventh Circuit reviewed *Dolgencorp* in order to deny tribal jurisdiction in a payday loan dispute. *Jackson v. Payday Fin., LLC*, 2014 U.S. App. LEXIS 16257 (7th Cir. Ill. Aug. 22, 2014). In *Jackson*, the Seventh Circuit overturned the district court's dismissal of a claim brought by debtor plaintiffs against a Payday Loan company in federal court. Although the payday loan contract had a forum selection clause, mandating arbitration by the Cheyenne River Sioux Tribal Nation, the Seventh Circuit found that the plaintiffs did not have to go through tribal arbitration nor through tribal court before bringing suit in federal court.

First, the Court held that the forum selection arbitration clause was unreasonable and unconscionable because it was illusory: the Tribe did "not authorize Arbitration," nor did it involve itself in the hiring of arbitrators. *Id.* at 24. According to the Seventh Circuit, it was impossible to have the contemplated arbitration under the "watchful eye of a legitimate governing tribal body" when the governing body had no rules concerning arbitration. *Id.* at 33.

Second, the Court found that the plaintiffs did not first have to submit to the tribal court's authority before bring their federal case, because the tribal court did not have jurisdiction under *Montana*. The defendants claimed the tribal court had jurisdiction under *Montana*'s first exception; namely, that a tribe has jurisdiction over "activities of nonmembers who enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements." 450 U.S. at 565-6. The Court found that the exception was limited to activities by non-members conducted on (or with a direct nexus to) tribal land. 2014 U.S. App. LEXIS 16257 at 41. In short, "Montana and its progeny permit tribal regulation of nonmember *conduct inside the reservation* that implicates the tribe's sovereign interests." *Id.* at 41-42 (emphasis in original) (quoting *Plains Commerce*, 554 U.S. at 327).

The court also rejected the argument that plaintiffs consented to tribal jurisdiction, as the contract made no mention of surrendering to tribal authority, or that there was any nexus between this case and the tribe's inherent authority. *Id.* at 44. It was here that the Court cited *Dolgencorp* in a footnote. It noted that while *Dolgencorp* rejected a requirement by *Plains Commerce* finding that a specific contract or relationship implicated the tribe's self-government, it still found that the general subject matter should implicate the tribe's sovereign authority. *Id.* at 44, fn 43. The Seventh Circuit distinguished the present case from *Dolgencorp* by noting that in *Dolgencorp*, the Fifth Circuit found the case revolved around a tribe's "ability to regulate the

working conditions (particularly as pertains to health and safety).” *Id.* (citing *Dolgencorp*, 746 F.3d at 175). No such tribal concern was present here. *Id.*

Finally, there was not even a “colorable” claim of tribal subject matter jurisdiction” such that the exhaustion requirement kicked in. *Id.* at 46. According to the Seventh Circuit, the dispute did not take place on reservation lands, nor did it impact tribal affairs. *Id.* at 49.

2. Eighth Circuit - *State Farm. v. Turtle Mountain*

The Eighth Circuit has reviewed two cases citing *Dolgencorp*, and one district court within the circuit.

The district court decision came first. In *State Farm Ins. Cos. v. Turtle Mt. Fleet Farm LLC*, 2014 U.S. Dist. LEXIS 65748 (D.N.D., May 12, 2014), In order to defeat tribal jurisdiction, defendant State Farm went so far as to argue that after *Plains Commerce* the "consensual relationship" for purposes of the first *Montana* exception must now be with the Tribe and not simply with a tribal member. However, the district court rejected this argument, finding that the Eighth Circuit has never read *Plains Commerce* to have such a requirement. It noted that the Fifth Circuit recently rejected this argument in *Dolgencorp*, and then quoted *Dolgencorp* at length, particularly how the Fifth Circuit found that “[n]othing in *Plains Commerce* requires a focus on the highly specific rather than the general” in finding whether the consensual relationship “implicate[s] tribal governance and internal relations.” *Id.* at *21-24. Therefore, under *Plains Commerce*, there was no requirement that the consensual relationship, implicating the tribe’s ability to govern itself, must be a relationship with the Tribe itself.

Dolgencorp was merely mentioned in a footnote in *Fort Yates Pub. Sch. Dist. #4 v. Murphy*, 786 F.3d 662, 665 (8th Cir. 2015), and then only for the dismissal of Townsend. There, Plaintiff Fort Yates Public School District brought an action against Defendant Murphy for C.M.B. (a minor) and the Standing Rock Sioux Tribal Court seeking to halt claims that Murphy filed against the School District in Tribal Court. The district court dismissed the entire case on the grounds that the Tribal Court had jurisdiction, and the School District appealed. Although the Eighth Circuit found that it was proper to dismiss the Tribe (as the district court had no jurisdiction over the tribe because of sovereign immunity), the Eighth Circuit found that the Tribal Court did not have jurisdiction over a nonmember parent's claims against a school district under *Montana*. The court found that jurisdiction was not conferred by an agreement between the district and the Tribe to provide services for students residing on the reservation. In so holding,

the court “note[d] that other courts have found the second *Montana* exception inapplicable to conduct that was either comparable or more detrimental to the Tribe's subsistence and well-being than the conduct alleged in this case,” citing the district court’s decision in *Dolgenercorp*. The Eighth Circuit summarized the district court case: “holding that the second *Montana* exception did not apply to a case in which a nonmember of the tribe allegedly molested a minor tribe member,” and noting it was affirmed by the Fifth Circuit.

Finally, in *Belcourt Pub. Sch. Dist. v. Herman*, 786 F.3d 653, 655 (8th Cir. 2015), the Eighth Circuit similarly found that a tribal court did have jurisdiction by means of their agreement with the school district. The *Dolgenercorp* case was cited in an identical way as in *Fort Yates* in a similar footnote.

3. Sixth Circuit – Soaring Eagle Casino

In *Soaring Eagle Casino & Resort v. NLRB*, 2015 U.S. App. LEXIS 11306, *2 (6th Cir. 2015), the Sixth Circuit reviewed the National Labor Relations Board's jurisdiction over an Indian tribe's operation of a casino on reservation land. The case involved an employment dispute involving a particular casino policy; the NLRB ordered the casino that a casino policy was against the NLRB rules, and ordered reinstatement of the employee. The Sixth Circuit affirmed the order, finding that the Board has jurisdiction over the Casino's employment practices.

Although not the typical civil suit, the Sixth Circuit noted that Montana outlined the Tribes’ inherent authority in civil matters over non-members. Citing *Dolgenercorp*, the Sixth Circuit concluded that, “under an appropriate analytical framework, the first *Montana* exception concerning consensual commercial relationships between the Tribe and nonmembers should apply to these facts.” Using this, the Sixth Circuit “would” have concluded, “if writing on a clean slate,” that the NLRB did not apply, and that the Casino had inherent authority in the employment matter in issue. However, the Sixth Circuit eventually concluded the opposite, instead using an analysis employed by the NLRB itself, a framework outlined by the Ninth Circuit in *Donovan v. Coeur d' Alene Tribal Farm*, 751 F.2d 1113 (9th Cir. 1985), for determining when a statute of general applicability applies to tribal enterprises.

C. USSC Action on Dolgenercorp’s Petition for Certiorari

Petition for Certiorari was filed by Dollar General Corp. on Jun. 12, 2014.

In their petition, Petitioners, Dollar General Corp. and Dolgencorp, LLC, ask the following question: “Whether Indian tribal courts have jurisdiction to adjudicate civil tort claims against nonmembers, including as a means of regulating the conduct of nonmembers who enter into consensual relationships with a tribe or its members?”

The Petitioners argued that in *Nevada v. Hicks*, the Supreme Court highlighted that it has “never held that a tribal court had jurisdiction over a nonmember defendant” and that it was an “open question” whether tribal courts may ever exercise civil jurisdiction over nonmembers. Petitioners also argued this question was left unresolved in *Plains Commerce*, as the Court decided that case on other grounds. Therefore, this case squarely presents the opportunity to resolve that question.

Petitioners argue that allowing the Fifth Circuit case to stand “means that an employer is subject to tort claims for any ‘harm caused to the [employee] in the course of his employment.’” (Notably, it appears that the Petitioners mean that the Fifth Circuit’s decision exposes an employer to *tribal jurisdiction* for these tort claims). Petitioners argue that there is even more far reaching possibilities “if tribes may use tort law to regulate employment relationships,” which could be extended to other areas of tort law, including businesses’ relationships with their clients.

Petitioners then argue that the Fifth Circuit got it wrong. First, they describe a backdrop of courts questioning tribal jurisdiction without Congressional approval. Then, against this backdrop, they argue that *Montana*’s first exception was never intended to apply to tort law. Thus, they argue: “Accordingly, when the Court in *Montana* spoke of a tribe regulating nonmembers ‘through taxation, licensing, or other means,’ it had in mind modes of regulation that permit nonmembers to ascertain, *ex ante*, the scope of their exposure to tribal authority and litigation.” Tort claims, Petitioners argue, are fundamentally different in that they are unwritten common law, and therefore there is no confidence that businesses agreed to tribal tort law when agreeing to function on tribal land. Finally, Petitioners argues that the safety and welfare of the tribe’s members is too tenuous a nexus to bring businesses under tribal jurisdiction.

On October 6, 2014, the United States Supreme Court invited the Solicitor General of the United States to submit the Government’s view on the merits of Dolgencorp’s cert petition.

The Solicitor General of the United States recommended that the Supreme Court *not* accept the case for review, arguing that the Fifth Circuit’s decision was correct, that there was no split among the circuits, and that the Petitioners had other means of seeking redress.

The Solicitor General summarized the petitioner's argument by saying that the Petitioners argue that tribal courts universally "lack jurisdiction to adjudicate private tort claims against nonmembers absent authorization from Congress." The Solicitor General found "no foundation in this Court's cases" nor in any court of appeals for such a "categorical prohibition." Brief, p. 8.

In arguing that the Fifth Circuit's decision was correct, the Solicitor General brief focused more on the fact that the events occurred on tribal land, noting the Supreme Court's statements that a tribe's authority is highest on its own land (citing *Plains Commerce* and the Ninth Circuit's *Water Wheel* decision). The Solicitor General noted that the Petitioners did not contest that they had an on-going business relationship on tribal land, under a lease requiring the company comply with federal and tribal laws, and under an agreement to participate in the YOP. Nor did they contend that protecting a tribal member from sexual molestation while participating in a tribal program did not implicate "tribal governance and internal relations." (quoting *Plains Commerce Bank*). And while noting that the Petitioners' do contest the "nexus" that the Fifth Circuit found between the consensual relationship and the activity the tribe seeks to regulate, the Solicitor General argued that Petitioners did not and cannot contest the other "nexus" that the Fifth Circuit found between the Petitioner's agreement to participate in YOP and the alleged tort.

Finally, the Solicitor General noted that Petitioners never had reason under Supreme Court precedent to believe that nonmembers could never be sued civilly in tribal court, and that they now ask for that very proposition. Petitioners try to distinguish between *Montana's* reference to tribal regulation "through taxation, licensing, or other means" and being sued for a tort; but the Solicitor General argued that these are not categorically different, and that the Supreme Court in *Hicks* specifically mentioned tribal jurisdiction over tort claims. And, stted by the Solicitor General, precluding tribes from having jurisdiction over torts committed on their land "would directly 'infringe[] upon tribal lawmaking authority' by sidelining the very entities, tribal courts, that 'are best qualified to interpret and apply tribal law.'" (quoting *Iowa Mut. Ins. Co.*, 480 U.S. at 16).

The Supreme Court granted review on June 15, 2015, merely stating "Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit granted." *Dollar Gen. Corp. v. Miss. Band of Choctaw Indians*, 2015 U.S. LEXIS 4003, *1 (U.S. June 15, 2015).

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 445

Introduced by Assembly Member Alejo

February 23, 2015

An act to amend Section 400 of the Family Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 445, as amended, Alejo. Marriage.

Existing law enumerates persons who are authorized to solemnize a marriage, including any priest, minister, rabbi, or authorized person of any religious denomination.

This bill would add a tribal court judge who has been authorized by tribal ordinance to solemnize marriages.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 400 of the Family Code is amended to
2 read:
3 400. Although marriage is a personal relation arising out of a
4 civil, and not a religious, contract, a marriage may be solemnized
5 by any of the following who is 18 years of age or older:
6 (a) A priest, minister, rabbi, or authorized person of any religious
7 denomination. A person authorized by this subdivision shall not
8 be required to solemnize a marriage that is contrary to the tenets

1 of his or her faith. Any refusal to solemnize a marriage under this
2 subdivision, either by an individual or by a religious denomination,
3 shall not affect the tax-exempt status of any entity.

4 (b) A judge or retired judge, commissioner of civil marriages
5 or retired commissioner of civil marriages, commissioner or retired
6 commissioner, or assistant commissioner of a court of record in
7 this state.

8 (c) A judge or magistrate who has resigned from office.

9 (d) Any of the following judges or magistrates of the United
10 States:

11 (1) A justice or retired justice of the United States Supreme
12 Court.

13 (2) A judge or retired judge of a court of appeals, a district court,
14 or a court created by an act of Congress the judges of which are
15 entitled to hold office during good behavior.

16 (3) A judge or retired judge of a bankruptcy court or a tax court.

17 (4) A United States magistrate or retired magistrate.

18 (e) A legislator or constitutional officer of this state or a Member
19 of Congress who represents a district within this state, while that
20 person holds office.

21 (f) A tribal court judge ~~who~~ *that* has been authorized by tribal
22 ordinance to solemnize marriages.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688

Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date

XX

Action Requested

Please Review

To

Tribal Leaders
Presiding Judges of the Superior Courts
Executive Officers of the Courts

Deadline

N/A

From

Ms. Mary Beth Todd, Chair
Court Executives Advisory Committee

Contact

Jennifer Walter
415-865-7687 phone
415-865-7217 fax
jennifer.walter@jud.ca.gov

Hon. Richard Blake, Co-Chair
Hon. Dennis Perluss, Co-Chair
Tribal Court–State Court Forum

Vida Castaneda
415-865-7874 phone
415-865-7217 fax
vida.castaneda@jud.ca.gov

Subject

Tribal Court/State Court Clerks &
Administrators Toolkit

On behalf of the California Court Clerks Association, California State-Federal Judicial Council, the California Tribal Court Clerks Association, the Court Executives Advisory Committee, the National Judicial College, and the Tribal Court–State Court Forum, we are writing to share this toolkit that we developed to encourage cross-court site visits and to facilitate shared learning among local tribal, state, and federal courts in California.

This toolkit is intended to spark your interest in other justice systems and help you prepare for a visit to each other's courts. What you will find in the toolkit are the following resources:

- 1) Learning request;
- 2) Information on the state judicial branch, the local state courts, and court-connected services; and
- 3) Information on tribal justice systems, the local tribal courts, and some of the tribal services available to American Indians and Alaskan Natives in California.

We partnered to create this toolkit in response to questions from court personnel about the operation of tribal, state, and federal courts. We believe that taking steps to visit each other's courts and time to identify what can be learned from each other's justice system will strengthen each of our justice systems and lead to innovative court collaborations.

This toolkit is offered with the hope that it will result in greater understanding and sharing of resources among tribal, state, and federal court justice systems, and will improve communication, foster understanding, and maximize resources for the benefit of all our citizens.



**JUDICIAL COUNCIL
OF CALIFORNIA**

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

Tribal/State Cross-Court Administrative Collaborative Learning Request

The following information is a checklist of items you may request to learn more about the local state court in this county. Please place a check next to the items you would like to learn about and return via fax, mail, in-person or email to the local state court prior to your meeting.

Visiting a Local State Court

Courthouse Facilities	
	Days and hours
	Library
	Tour of courthouse
	ADA accommodations description
	Courthouse events
Security	
	Emergency response planning (to address the court’s response in the first 72 hours following an emergency)
	Continuity of Operations Planning (COOP) (designed to facilitate a court continuing all essential functions within 12 hours of an emergency and sustaining those functions for up to 30 days)
	Current security measures
Local State Court Administration	
	Staff organizational structure
	Staff roles and responsibilities
	Training
	Performance evaluation/reviews
	Quality assurance (eg. file reviews)
Local State Court Operations	
	Mission statement, vision, goals
	Courts/Divisions
	Local court rules or forms
	Court operational manual
	Court staff structure
	Electronic filing or payment of fees
	Preparation of record for appeal
	Funding for court operations and projects (see statewide factsheet)
Cases	
	Collaborative courts (drug/DUI court, veterans court, mental health court etc)
	Case opening and organizing
	<ul style="list-style-type: none"> • Electronic filing

	<ul style="list-style-type: none"> • Court stamps used • Case number assignments • Internal case file organization • Confidential case file/documents
	<p>Case calendaring</p> <ul style="list-style-type: none"> • Process • When cases are heard • Display of case names • Location of posting • Timeline of posting • Archiving
	<p>Case filing system</p> <ul style="list-style-type: none"> • Calendar day • Pending • Closed case files • Storage
	<p>Courtroom technology</p> <ul style="list-style-type: none"> • How hearings are recorded • Case management system • Tracking cases <ul style="list-style-type: none"> ○ Mechanism for tracking cases ○ Data collection ○ Database/case management system ○ Reporting purposes (for example, reported to the tribal council, tribal departments, justice partners, or funders)
	<p>Orders</p> <ul style="list-style-type: none"> • Signature types • How parties receive orders • How orders are recorded • Do you issue tentative rulings?
	<p>Access</p> <ul style="list-style-type: none"> • Public’s access to court decisions • Public’s and parties’ access to case files

	<p>Court-connected services</p> <ul style="list-style-type: none"> • What are the services? • Who may access these services? • Where are the services? • Are any of your services part of a collaboration with the county, tribe(s) (local or out of state) or other service provider?
<p>Family Violence</p>	
	<p>Local state court practice and/or rules in regards to:</p> <ul style="list-style-type: none"> • Children & youth involved <ul style="list-style-type: none"> ○ Domestic violence ○ Sexual assault ○ Stalking ○ Trafficking ○ Dating violence ○ Elder abuse • Adults <ul style="list-style-type: none"> ○ Domestic violence ○ Sexual assault ○ Stalking ○ Trafficking ○ Dating violence ○ Elder abuse • Elders <ul style="list-style-type: none"> ○ Domestic violence ○ Sexual assault ○ Stalking ○ Trafficking ○ Dating violence
	<p>Recognition & enforcement of tribal protection orders</p> <ul style="list-style-type: none"> • Procedures • Protocol between the local and/or out of state tribe(s) and local state court under rule 5.386 of the California Rules of Court to permit fax or

	electronic filing of protection orders for registering under Family Code section 6404
	Registry system for storing data and images of protection orders <ul style="list-style-type: none"> • Shared access to tribal registries • National Crime Information Center • California Law Enforcement Telecommunication System (CLETS) • California Courts Protection Order Registry (CCPOR) • Other
	Crossover Issues <ul style="list-style-type: none"> • Child Welfare • Mental Health • Education • Veterans • Elders • Other
	Memoranda of Understanding or Other Agreements
	Advocates
	Victim Witness Program(s) <ul style="list-style-type: none"> • Local state court program <ul style="list-style-type: none"> ○ Location ○ Days ○ Hours ○ Types of services ○ Who may access services ○ Length of time to utilize services ○ Brochures ○ Additional materials • Partner tribal agency <ul style="list-style-type: none"> ○ Location ○ Days ○ Hours ○ Types of services ○ Who may access services ○ Length of time to utilize services

	<ul style="list-style-type: none"> ○ Brochures ○ Additional materials
	<p>Self-Help Program(s)</p> <ul style="list-style-type: none"> • Local state court program <ul style="list-style-type: none"> ○ Location ○ Days ○ Hours ○ Types of services ○ Who may access services ○ Brochures ○ Additional materials • Partner tribal agency <ul style="list-style-type: none"> ○ Location ○ Days ○ Hours ○ Types of services ○ Who may access services ○ Brochures ○ Additional materials
	<p>Safety Measures</p> <ul style="list-style-type: none"> • Courthouse • Courtroom • Children, families and others using the courtroom
Public Information	
	Court website
	Videos
	Brochures
	Community presentations
	Other
Collaborations	
	Educational opportunities
	Community meetings
	Justice partner meetings
	Tribal collaboration with 1 or more additional tribes

	Local domestic violence coordinating council or other local task force
	County, state, and/or federal agency partner meetings
	Family violence roundtables (local, regional, statewide and/or national)
	CASA program
	Casey Family Programs
	National projects or taskforces
	Other



JUDICIAL COUNCIL
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OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

Materials of Interest for Visiting a Local State Court

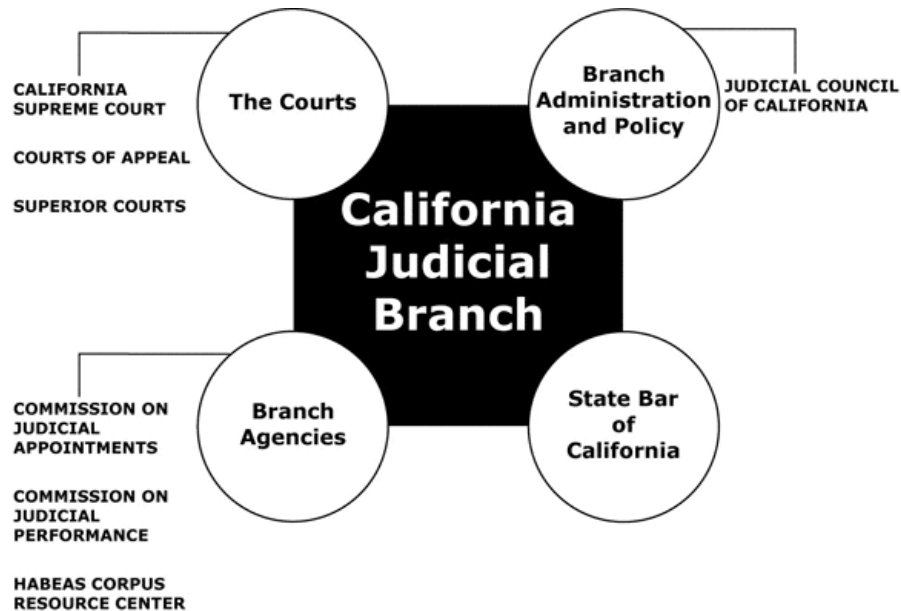
-Table of Contents-

- I. [The California Judicial Branch](#)
- II. [How to Find a Local State Court in Your Area](#)
- III. [How Courts Work](#)
- IV. [Types of Cases](#)
- V. [Services at Your Court](#)
- VI. [Basics of Court Forms](#)
- VII. [Adapting Judicial Council Forms for Tribal Courts](#)
- VIII. [How a Proposal Becomes a Rule](#)
- IX. [S.T.E.P.S. to Justice-Domestic Violence Brochure](#)
- X. [S.T.E.P.S. to Justice-Child Welfare Brochure](#)
- XI. [Recognition and Enforcement of Tribal Protective Orders](#)
- XII. [Waiver of Fees](#)
 - [Information Sheet on Waiver of Superior Court Fees and Costs](#)
 - [Request to Waive Court Fees](#)
 - [Information Sheet on Waiver of Appellate Court Fees](#)
 - [Government Code on Waiver of Fees](#)

CALIFORNIA COURTS

THE JUDICIAL BRANCH OF CALIFORNIA

California Judicial Branch



California Government's Three Co-Equal Branches

In California, as in the federal government, the power to govern is divided among three equal branches: the executive, the legislative, and the judicial.

The executive branch of government executes the laws enacted by the Legislature. Supreme executive power of the State of California is vested in the Governor. The Governor has authority not only to appoint positions throughout the executive branch, but also to make judicial appointments subject to the Legislature's approval.

The legislative branch of government is the State's law-making authority. The California State Legislature is made up of two houses: the Senate and the Assembly. There are 40 Senators and 80 Assembly members representing the people of the State of California.

The judicial branch of government is charged with interpreting the laws of the State of California. It provides for the orderly settlement of disputes between parties in controversy, determines the guilt or innocence of those accused of violating laws, and protects the rights of individuals. The California court system, the nation's largest, serves over 34 million people with more than 2,000 judicial officers and 21,000 court employees. The head of the judicial branch is the Chief Justice of California.

The Courts

[California Supreme Court](#)

[Courts of Appeal](#)

[Superior Courts](#)

Branch Agencies

[Commission on Judicial Appointments](#)

[Commission on Judicial Performance](#)

[Habeas Corpus Resource Center](#)

State Bar of California

[State Bar of California](#)

[Commission on Judicial Nominees](#)

Branch Administration and Policy

[Judicial Council of California](#)

Additional Information

[Fact Sheets](#)

[Reference Materials](#)

CALIFORNIA COURTS

THE JUDICIAL BRANCH OF CALIFORNIA

How Courts Work

In California, the courts are divided into 2 systems: federal and state. There is also the system of tribal courts, which are part of the Native American reservation system. And there is a system of administrative hearings to help resolve disputes when a local or state government agency takes an action against an individual or business. This section explains the different types of courts in California and gives you an overview of [how court cases work](#).

STATE COURTS IN CALIFORNIA

California has 2 types of state courts, trial courts (also called "superior courts") and appellate courts, made up of the Courts of Appeal and the California Supreme Court. The California Constitution also establishes the Judicial Council, which is the governing body of the California courts and is chaired by the California Supreme Court Chief Justice.

Trial Courts

Trial courts are also called "superior courts." In the trial or superior court, a judge, and sometimes a jury, hears testimony and evidence and decides a case by applying the law to the facts of the case.

Superior courts handle:

- All civil cases (family law, probate, juvenile, and other civil cases);
- All criminal cases (felonies, misdemeanors, and infractions, like traffic tickets);
- Small claims cases and appeals of small claims cases;
- Appeals of civil cases involving \$25,000 or less; and
- Appeals of infraction (like traffic) and misdemeanor cases.

There are 58 superior courts, 1 in each county. Some counties may have several courthouses in different cities, but they are all part of the same superior court for that county.

Superior court judges are elected by voters of the county on a non-partisan ballot at a general election. (Vacancies are filled by appointment of the Governor.) The term of office for a trial judge in California is 6 years. A superior court judge must have been an attorney admitted to practice law in California or have served as a judge of a court of record in this state for at least 10 years immediately preceding election or appointment. Click to find a particular [California trial court judge](#).

Finding the Superior Court in Your County:

All superior courts have websites that list the address and phone number of the court. These sites generally also:

- Give driving and transit directions;
- Provide local court rules;
- Provide the forms you will need;
- Tell the days and times the court is open; and
- Provide very helpful self-help legal information or resources for you to get help in your court and your county.

Your court's website can be a very helpful resource for you, so check it out! Click for the [superior court website for your county](#).

Appellate Courts

There are 2 types of appellate courts:

- Courts of Appeal
- California Supreme Court

Courts of Appeal

People who lose a case or part of a case in the trial court can ask a higher court (called an "appellate court") to review the trial court's decision. Appeals of family law cases, probate cases, juvenile cases, felony cases, and civil cases for more than \$25,000 are heard in the Court of Appeal.

In each Court of Appeal, a panel of 3 judges, called "justices," decides appeals from trial courts. Each district (or division, in the case of the First, Second, and Fourth Appellate Districts) has a presiding justice and 2 or more associate justices. Appellate justices are appointed by the Governor and confirmed by the Commission on Judicial Appointments. The same rules that govern the selection of Supreme Court justices apply to those serving on the Courts of Appeal. Click for information about the [justices on each Court of Appeal](#). Click on the Court of Appeal district for which you want the information.

The role of the Courts of Appeal is not to give new trials, but to review the record in the trial court case to decide if a legal mistake was made and if that mistake affected the final outcome of the trial court case. The Courts of Appeal cannot review death penalty cases.

The courts' decisions are called opinions. The opinions are public and are posted on the California Courts Web site. Not all opinions are published but those that are published may be helpful for you as you do research on your case. Click to search for a [California Court of Appeal](#) decision online.

Click for more information about [appeals and help filing an appeal](#).

Finding your Court of Appeal

There are 6 Courts of Appeals, and they each cover a number of counties in California. District headquarters for the Courts of Appeal are located in:

First Appellate District:	San Francisco
Second Appellate District:	Los Angeles
Third Appellate District:	Sacramento
Fourth Appellate District:	San Diego
Fifth Appellate District:	Fresno
Sixth Appellate District:	San Jose

The Courts of Appeal have websites that list the address and phone number for each court, and give you information on their local rules, forms, published opinions, mediation programs, and help that may be available. Click to find your [Court of Appeal's website](#).

California Supreme Court

The **Supreme Court** is the state's highest court. It can review cases decided by the Courts of Appeal.

Also, certain kinds of cases go directly to the Supreme Court and are not heard first in a Court of Appeal, such as:

Death penalty appeals, and
Disciplinary cases involving judges.

There are 7 judges (called "justices") on the Supreme Court, and at least 4 must agree to come to a decision. The 7 justices, 1 Chief Justice and 6 associate justices, are appointed by the Governor, confirmed by the Commission on Judicial Appointments, and confirmed by the public at the next general election. A justice also comes before the voters at the end of his or her 12-year term. To be eligible for appointment, a person must have been a member of the State Bar of California or a judge of a court in this state for at least 10 years. Click for information about the [Supreme Court's 7 sitting justices](#).

A decision of the Supreme Court must be followed by all other state courts in California. Decisions of the Supreme Court are published in the California Official Reports, which can be found on the California Courts website. Click to search for a [California Supreme Court](#) decision online.

Finding the California Supreme Court

Click for the [Supreme Court's website](#).

California Judicial Council

The Judicial Council is the governing body of the California courts. It is chaired by the California Supreme Court Chief Justice.

The California Constitution directs the Judicial Council to provide policy guidelines to the courts, make

recommendations annually to the Governor and Legislature, and adopt and revise California Rules of Court in the areas of court administration, practice, and procedure. The council performs its constitutional and other functions with the support of its staff.

New judicial members of the council and its committees are selected through a nominating procedure intended to attract applicants from throughout the legal system and to result in a membership that is diverse in experience, gender, ethnic background, and geography.

The council has 21 voting members, who include 14 judges appointed by the Chief Justice, 4 attorneys appointed by the State Bar Board of Governors, and 1 member from each house of the Legislature. The council also has about 11 advisory members, including court executives or administrators, the chair of the council's Trial Court Presiding Judges Advisory Committee, and the president of the California Judges Association. The council performs most of its work through internal committees and advisory committees and task forces.

FEDERAL COURTS

In addition to the state courts, there are also federal courts that handle federal cases that take place in California. The federal courts are similar in structure to state courts in California. The U.S. Supreme Court is the highest court in our country.

There are 3 levels of federal courts:

- The U.S. district courts (the trial courts),
- The U.S. courts of appeals (the appellate courts), and
- The U.S. Supreme Court.

United States District Courts

The U.S. district courts are the trial courts of the federal court system. The district courts can hear most federal cases, including civil and criminal cases.

There are 94 federal judicial districts in the United States and its territories. Each district includes a U.S. bankruptcy court. Some states, like Alaska, have only 1 district for the whole state. Others, like California, have several.

There are also 2 special federal trial courts that hear certain kinds of cases from anywhere in the country:

- The Court of International Trade hears cases about international trade and customs issues.
- The U.S. Court of Federal Claims hears cases about claims for money damages against the United States, disputes over federal contracts, cases about unlawful "takings" of private property by the federal government, and other claims against the United States.

United States Courts of Appeals

The U.S. district courts are organized into 12 regional circuits and each has a U.S. court of appeals.

There is also one Court of Appeals for the Federal Circuit. This court has nationwide jurisdiction to hear appeals in specialized cases, like patent law cases and cases decided by the Court of International Trade and the Court of Federal Claims.

A court of appeals hears appeals from the district courts in its circuit. It can also hear appeals from decisions of federal administrative agencies.

United States Supreme Court

The U.S. Supreme Court has a Chief Justice and 8 associate justices. The Supreme Court can choose a limited number of cases from the cases it is asked to decide. Those cases may begin in the federal or state courts. And they usually involve important questions about the U.S. Constitution or federal law.

Types of cases in federal courts

The federal courts handle 2 main types of cases. These are cases with:

Federal question jurisdiction

These types of cases have to do with the U.S. government, the U.S. Constitution, or federal laws.

OR

Diversity jurisdiction

These types of cases happen when the 2 parties are from different states or different countries. Any diversity jurisdiction case can be filed in state court instead of federal court. But if the case is worth less than \$75,000, you must file it in state court.

Federal courts also handle all bankruptcy cases.

Usually, they do not deal with cases about:

- Divorce and child custody,
- Probate and inheritance,
- Real estate,
- Juvenile matters,
- Criminal charges,
- Contract disputes,
- Traffic violations, or
- Personal injury.

For more information about the federal court system, go to: <http://www.uscourts.gov> .

TRIBAL COURTS IN CALIFORNIA

As sovereign entities separate from both the state and federal government, federally recognized tribes may have their own court systems. There are over 107 federally recognized tribes in California and over 565 federally recognized tribes in the United States. Currently there are 19 tribal courts operating in California, serving about 40 of California's tribes. Each tribal court exercises the jurisdiction granted to it under the codes and constitution of the particular tribe. Each tribal court has its own rules of practice and procedure and forms.

The kinds of cases heard in tribal court differ from court to court and can change over time. Currently tribal courts in California deal with a wide range of issues including child welfare, guardianship, civil disputes, violation of tribal ordinances and restraining orders.

Click for more information on [tribal courts in California](#).

ADMINISTRATIVE HEARINGS

In California, when an individual or business disagrees with a government agency's action, that action can be challenged. This is done by asking for an administrative hearing. Administrative law hearings are less formal than courtroom trials. Administrative law judges run the hearings. They are neutral judicial officers that conduct hearings and settlement conferences. If you do not win, you can ask a superior court to review the hearing decision. This is called a "[writ](#) of mandate." You may contact the agency that you are having a problem with and ask how to review the agency's action. Click for a [list of agencies and their websites](#). Some agencies have information about their hearings on their websites.

Some California administrative agencies, such as the Department of Motor Vehicles and the Department of Social Services, run their own hearings and have their own procedures. Other agencies have independent appeals boards. For example, the California Unemployment Insurance Appeals Board (CUIAB) is independent from the Employment Development Department (EDD), the agency that runs the unemployment and disability benefits programs.

Other state and local agencies have the Office of Administrative Hearings (OAH) handle their appeals. OAH runs administrative hearings for over 1,400 state and local government agencies. OAH also has alternative dispute resolution and mediation services, which work to find a settlement agreeable to both sides. Click to find out more about the [Office of Administrative Hearings \(OAH\)](#) . This website also has a link to the Administrative Procedure Act (part of the Government Code) that provides rules for hearings run by the OAH.

HOW COURT CASES WORK

Every court case is different, and you can get detailed information about how a specific type of case starts and moves through the court by going to the type of case you are interested in on our home page.

But there is some general information about how court cases work that can help you get an idea of what your case will be like too.

The court system is set up to resolve disputes, called "cases," "lawsuits," or "actions." To resolve a dispute, a court must do 2 things:

- It must "find the facts" of the dispute (decide what actually happened), and
- It must apply the appropriate law to the facts.

Once they get to court, cases are usually resolved or decided in 1 of 2 ways:

- By a trial: A public hearing in which each side presents evidence backing its version of the facts and provides legal arguments to the judge about which laws apply to the case. The jury (or the

judge if there is no jury) decides the facts, and the judge decides which laws apply to these facts.

OR

By settlement. About 80 percent of cases filed in superior courts are resolved before they get to a trial. In civil cases, both sides of a case often agree to settle their disagreement and reach a compromise to avoid the expense of a trial or the risk of losing at a trial. In criminal cases, prosecutors often offer defendants the chance to avoid a trial by pleading guilty to a lesser charge. Settlements can happen at any stage of a case, from before the case is filed in court all the way to a minute before the trial. Sometimes there are even settlements after a trial, to avoid the time and expense of an appeal or to work out a payment plan for the court's judgment.

Generally, cases (if they go all the way through trial) have the same basic steps:

1. **Pre-filing**, which starts when a dispute arises. There are a lot of things to do to get ready before you file a lawsuit.
2. **Filing**, which starts when 1side fills out and files papers to start a court action, and the other side files a response.
3. **Discovery**, which is when you and the other side exchange information and learn about the strengths and weaknesses of your case.
4. **Pretrial**, which is when you get ready for the trial. If you cannot settle your case, pretrial starts about 90 days before your trial. You must make decisions (like if you need an expert witness), get all your evidence ready for trial, and have settlement conferences with the judge.
5. **Trial**, which can last 1 day or many months depending on how complicated the case is. Depending on the type of case, the trial can be before either a judge alone or a judge and a jury.
6. **Posttrial**, which is the period after the trial and can include things like appeals or efforts by the winning side to collect the judgment.

Learn more about [how to prepare for going to court](#).

Inside the Courtroom

Many things happen in courtrooms:

Trials and hearings take place.
People meet with a judge to discuss settling their case without a trial.
Judges tell defendants about crimes they are charged with (called "arraignment").
People have hearings on certain issues before their trial.

There are several people in a courtroom. Many are court employees. Some work for other agencies, like the local sheriff's department. In most courtrooms, you will find these court employees and staff:

1. **A judicial officer**
Every courtroom has a judicial officer, the person who makes the decisions about the problem that people came to court about. He or she wears a black robe and sits at the front of the courtroom facing everyone else. Judicial officers are guided by the California Code of Judicial Ethics. Click for the [Code of Judicial Ethics](#) . A judicial officer can be:
 - a. **A judge**. Superior court judges are elected by voters of the county on a non-partisan ballot at a general election.(Vacancies are filled by appointment of the Governor.)
 - b. **A commissioner**. A commissioner is a person chosen by the court and given the power to hear and make decisions in certain kinds of legal matters.
 - c. **A temporary judge**. A temporary judge is a lawyer who volunteers his or her time to hear and decide cases. Also called a "judge pro tem."
 - d. **A referee**. A referee is a type of master appointed by a court to assist with certain proceedings.
2. **A clerk of the court**
Every courtroom has a clerk who helps the judge manage cases, keeps court records, deals with financial matters, and gives other administrative support to the judge and the court as a whole.
3. **A bailiff**
Most courtrooms will have a bailiff in charge of security in the court. Usually, bailiffs are picked by sheriffs or marshals.
4. **A court reporter**
Many courtrooms have a court reporter, who writes down, word for word, what is said during the proceedings. They generally use a stenographic machine, shorthand, or a recording device. People can ask for a copy of this official record, called the "transcript," but they usually have to pay for it. Small claims and some other courtrooms do not have court reporters so there is no transcript of the trial.
5. **A court interpreter**
When 1 of the parties or witnesses in a case does not speak English well, there usually is a court interpreter (who speaks English and the non-English speaker's primary language) to help the non-English speaker understand what is going on. In some cases (such as criminal cases), the interpreter is paid for by the court and may be a court employee. Often, as in most civil cases, the person needing the interpreter must get and pay for his or her own interpreter or get a friend to help interpret. Click for [more information on court interpreters](#).

If you are deaf or hard-of-hearing, the court will appoint a sign language interpreter for you, paid for

by the court. Get information about services for persons with disabilities and [Americans with Disabilities Act \(ADA\) Coordinators](#) as well as a form to ask the court for an accommodation.

To truly find out what goes on in a courtroom, go and watch. Most hearings and trials are open to the public. Courtroom activities change from day to day and from one courtroom to another. If you have a case with a particular judge, go watch how that judge handles cases like yours. That way you will have an idea of what to expect and how to prepare.

Types of Cases

Trial courts hear many different types of cases. Overall, cases fall under 1 of 2 categories:

Civil cases

"Civil" cases are the cases in which private citizens (or companies) sue each other in court. Civil cases are not about breaking a criminal law.

There are many different kinds of cases in civil court. This website has separate sections for the most common kinds of civil cases. For more detailed information, you can go to [our home page](#) and click on the topic that interests you.

There are a lot of different kinds of cases in civil court:

- Small claims cases, which are lawsuits between individuals or companies for \$10,000 or less, and where no one is allowed to have a lawyer.

- General civil cases, usually involving suing someone for money in disputes over things like contracts, damage to property, or someone getting hurt.

- Family law cases such as divorce, child support, child custody, and adoptions.

- Landlord/tenant cases, where a landlord is trying to evict a tenant from a rental property or a tenant that has moved out is trying to get ore of his or her security deposit back from the landlord.

- Probate cases, which are generally about taking care of people and their personal affairs (like wills) and conservatorships for people who cannot take care of themselves or handle their own finances.

- Juvenile cases, which involve children under the age of 18 and are separated into 2 main categories: juvenile delinquency (for minors who have broken a criminal law) and juvenile dependency (for children who have been removed from the home or care of their parents).

- Other types of cases like name changes, elder abuse, civil harassment, and many others.

Unlike in criminal cases, there is no right to a court-appointed lawyer in most civil cases. This means that, if you cannot afford a lawyer and you cannot get a legal aid or pro bono (volunteer) lawyer, you have to represent yourself. Click if you want more information about being your own lawyer and [Representing Yourself](#).

Some civil cases are decided by judges or by commissioners, like family law, small claims, probate, or juvenile cases. Other civil cases are decided by juries, where it is only necessary that at least 9 of the 12 jurors agree on the verdict.

Standard of proof

In most civil cases, the judge or jury has to make a decision about which side wins based on a standard called "**preponderance of the evidence**." This means that, if you win, your side of the story is more likely than not. It does not mean that one side brought in more evidence than the other side. It means that one side's evidence was more believable than the other's.

In some cases, the standard for reaching a decision is "**clear and convincing evidence**." This means that, for you to win, you have to prove that your version of the facts is highly probably or reasonably certain, or "substantially more likely than not."

BUT neither of these standards is as strong as the standard in criminal cases, which requires the state to prove that the defendant is guilty of the crime he or she is being charged with **beyond a reasonable doubt**.

Criminal Cases

A criminal case is a lawsuit brought by the state against a person who has broken a criminal law. They are usually filed by the district attorney (also called the "DA"), which represents the state, against 1 or more defendants. Only the state, not another person or company, can bring criminal charges against you. The penalty for being found guilty of a crime is jail or prison time or a fine (or both).

Criminal cases are separated into three main categories:

- Infractions** (like traffic tickets), which are minor violations and, usually, the punishment is having to pay a fine.

- Misdemeanors** (like shoplifting), which are more serious crimes that can be punished by up to 1

year in jail and/or fines up to \$1,000.

Felonies (like murder), which are the most serious kinds of crime. If you are found guilty, you can go to state prison for more than a year, and in the most serious cases, get the death penalty.

Because of the serious consequences of a guilty verdict, defendants in criminal cases have a number of constitutional rights, like the right to a court-appointed lawyer if they cannot afford one, the right to remain silent, the protection from unreasonable searches, and the right to a jury of their peers.

In criminal cases, the defendant is presumed innocent. The prosecutor (the DA) must prove a defendant's guilt beyond a reasonable doubt. And to convict a defendant, the jury must be unanimous, so all 12 jurors must agree on the verdict.

Click for more information about [criminal cases](#).

Services at Your Court

Most people think courts are just for trials. But courthouses offer many services.

Court Clerk

The court clerk is the official record keeper of the courthouse.

The clerk:

- Files your papers with the court;
- Collects filing fees;
- Helps you find court forms;
- Helps you find the local court rules;
- Tells you about places where you can go to talk to a lawyer; and
- Tells you about court schedules.

The clerk can also help you find old records like a divorce decree, or give you information about what documents have been filed with the court. Click to find out [how to get court records](#).

Read [Form MC-800](#) to find out more about how clerks can help you.

Self-Help Centers, Small Claims Advisors, and Family Law Facilitators

Every superior court has some help available to people who do not have lawyers and need legal information. The types of cases you can get help with and how much help you can get varies in different counties.

In every county you will find:

- Family law facilitators (FLFs)**, to help with child support and paternity/parentage problems. You may also be able to get help with other family law issues, so contact your FLF to find out.
- Small claims legal advisors (SCLAs)** to help with small claims cases.
- Other self-help assistance such as self-help centers (SHCs)**, which can help with many kinds of problems like divorce, custody, restraining orders and evictions, depending on the county.

The **FLF, SCLA, or SHC** in your county may also refer you to others who can help you.

Our web page on [Help From Your Court](#) gives you a lot more detail about these self-help services and links for finding the right help in your court.

Court Interpreters

By law, in California all official court business must be conducted in English. So, when 1 of the parties or witnesses in a case does not speak English well, that person will need a court interpreter (who speaks English and the non-English speaker's primary language) so he or she can understand what is going on and talk to the judge, if needed.

An interpreter is different from a translator because while interpreters translate what is being said, translators translate written materials. Some interpreters are translators and some translators are interpreters. But just because someone is a translator does not mean they can interpret, especially not in court, where the legal language is very specialized and can be complicated and confusing to someone who does not know it well.

In some cases (such as criminal cases), the interpreter is paid for by the court and may be a court employee. Often, as in most civil cases, the person needing the interpreter must get and pay for his or her own interpreter or get a friend to help interpret.

If you need an interpreter, start by asking someone who speaks English to call the court clerk at least a week before your hearing and ask for a court interpreter for you. You may have to pay a fee.

Keep in mind that just because someone you know speaks both English and your first language does not mean he or she would be a good interpreter. A court interpreter needs to be familiar with legal terms and concepts in both English and your first language, and most people are not. If you get someone who cannot accurately interpret everything the judge or the lawyers are saying to you, you may miss important information and be at a disadvantage. Court hearings are your 1 chance to tell your side of the story to the judge. If you have an interpreter that does not get across what you are saying exactly as you are saying it, you will not have a second chance to talk to the judge. That is why it is very important you have an interpreter with experience.

Using a court interpreter can be awkward because you have to go through a third person to get your information or talk to the judge. Get tips to help you [work with a court interpreter](#).

To make sure you get an experienced court interpreter, you should consider a professional interpreter who has passed the required examinations and has officially registered and been approved as a court interpreter by the Judicial Council of California.

There are 2 types of officially approved court interpreters in California:

Certified court interpreters: Only interpreters who pass the Court Interpreter Certification Examination and register with the Judicial Council are referred to as "certified" in 1 or more of these 13 languages:

American Sign Language *AND*

Arabic	Mandarin
Eastern Armenian	Portuguese
Western Armenian	Russian
Cantonese	Spanish
Japanese	Tagalog
Korean	Vietnamese

Registered court interpreters: Interpreters of spoken languages for which there is no state certifying examination are called "registered interpreters of non-designated languages." They must pass an English proficiency examination, and register with the state's Judicial Council.


Click for a [list of certified and registered court interpreters](#).

ADA (Americans With Disabilities Act) Coordinators

California and federal law require that the courts (and government agencies) provide appropriate accommodations for persons with disabilities.

Each court has an Americans With Disabilities Act Coordinator to help persons with disabilities. You can ask a court clerk to speak with your court's ADA coordinator. Visit [your court's website](#) to find your court's ADA coordinator.

You can receive reasonable accommodations from the courts if you have a disability, have a record of a disabling condition, or are regarded as having a disability that limits 1 or more major life activities, like caring for yourself, performing manual tasks, walking, seeing, hearing, breathing, learning and working.

To request an accommodation from the court, fill out the *Request for Accommodations by Persons With Disabilities and Response* ([Form MC-410](#) | [video instructions](#) ). You can find this form online, or at your clerk's office. The form and instructions are available in different formats, like Braille and large print, on request. If the form is unavailable, you can make your request in writing or verbally to your court's ADA coordinator.

[For Persons With Disabilities Requesting Accommodations](#) gives you more information about the court's policy for providing accommodations for persons with disabilities. You can also ask your court's ADA Coordinator for more information.

Children's Waiting Rooms

Some courthouses have waiting rooms for children. Before you go, call your court clerk and ask if they have one. Find out their hours and their policies (like, whether there is a minimum or a maximum age requirement). Click to [find your court's website](#).

If your courthouse does not have a children's waiting room, try to leave your child with a babysitter, a friend, or a relative. It may be very hard for you to make other arrangements for your children, but you

will be more relaxed if you do not have to worry about your children while you are in court. Also, in family law cases where you may have to face your former partner or spouse, ex-boyfriend or ex-girlfriend, or your children's other parent, bringing your children with you can expose them to fighting between the 2 of you and can put them in the middle of your disputes.

But if the judge orders your child to come to court, make sure you follow the court order.

Basics of Court Forms

When you take a case to court, you must file legal documents that tell the court what the dispute is and what you are asking for. Both sides of a court case must then file more documents giving the court the information it needs to make a decision. There may also be court hearings or a trial where you can present witnesses or present your case verbally, but the written documents you file are a crucial part of any case. Without them, there would be no case in court.

Judicial Council Forms

To help you make sure that your court documents have the information the court needs, the California courts have created a set of court forms called Judicial Council forms. These forms have boxes you need to check depending on your situation, have blank spaces for you to provide information, and give a lot of other information to both you and the court. Some of these forms are adopted (using them is mandatory) and some are approved (using them is optional, which means you must still provide the information requested on the form, but you can use a different form or just write up the information without using a form).

There are Judicial Council forms for many civil and criminal cases. When you need to file anything with a court, you should always check to see if there is a form for your exact legal problem. Click to find all current [Judicial Council forms](#). Click for a [guide on how to find and fill out family law forms on the internet](#).

Click if you cannot find a Judicial Council form for what you need to do and [need a non-form pleading](#).

How to find a court form


Forms are either state forms or local forms. Most forms used at court are state forms and are on the state judicial branch's California Courts website. Local forms are usually available on your court's website. Or you can call or go to the clerk's office and ask for the local form you need.

To find Judicial Council forms online:

Go to [Browse All Forms](#)

From the dropdown menu you can choose a group of forms according to the topic your case is about, or, for example, "All Forms Listed by Name" to find all the Judicial Council forms in alphabetical order.

Note that when you see the list of forms, there is a column of form numbers. If you click on the form number, you can either print out the form blank or fill it out online and then print it. Click if you need help understanding [how to fill out forms online](#).

To find a form when you do not know exactly what form you need, you can read the section of this Online Self-Help Center on the topic relating to what you are trying to do and you will probably find the form number and name that you need as well as a link to the form. For example, if you are looking for the form to start a divorce, go to our section on [filing for divorce or legal separation](#). There, you should find instructions that tell you that you need to start with the *Petition - Marriage* ([Form FL-100](#) | [video instructions](#) ) and the form number will be linked to the form itself.

Using Judicial Council forms

Judicial Council forms can be very helpful to you in several ways:

Many Judicial Council forms have instructions on the other side of the page that can help you understand how to use that form.

There are some Judicial Council forms that just provide information to you. These forms usually (but not always) have the word "INFO" in their number, like [FW-001-INFO](#), which is the Information sheet for fee waivers. These informational forms can be extremely helpful in understanding what steps you need to take to move forward with your case.

All Judicial Council forms that are filed with the court tell you on the bottom left corner of the page whether the form is "adopted for mandatory use" (meaning that you must use that form) or "approved for optional use" (meaning that you can create your own form or use a different form-- as long as it has all the required information)

Most Judicial Council forms have, on the bottom right corner, the laws or codes that relate to what the form is about. For example, the *Petition - Marriage* ([Form FL-100](#) | [video](#)

[instructions](#) () says "Family Code, §§ 2330, 3409." This information can be very helpful to you as you fill out your form and for any legal research. It tells you that you can find the law for divorce in sections 2330 and 3409 of the California Family Code. So if you have a question about something that the form is asking you to fill out and you want to know the law, you can go to these code sections and look it up yourself.

Tips for filling out Judicial Council forms

Make sure you have the most current version of the form. All Judicial Council forms have a date on the bottom left corner. This is the date that the form was last updated. Court forms at www.courts.ca.gov/forms.htm are always kept up to date. But, forms you may pick up at your local courthouse or find in a self-help book may not be. So, when you pick up a hard copy of a form, compare the date on it against the date on the form online to make sure it is the most current version. You can also ask the court clerk if you have the latest version.

Be sure your forms are clear and easy to read. Use blue or black ink or type them. Forms are available online and you can fill them out online too if you have a computer. Click if you need help understanding [how to fill out forms online](#).

On most forms you need to write your legal name, current address, and daytime phone number in the box at the top of the first page. If you do not want to write your home address, use another address where you can get mail. The court will send your court papers to this address. You can also provide your email address, but this is optional.

Most forms have a "caption" on the first page that you always need to fill out. The caption contains your name, address and phone number, the court's address, the names of the parties in the case, and the case number. You should always fill out the caption the same way to avoid confusing the court. If your address changes, make sure you also [file a "Change of Address" with the court](#).

If you do not have a lawyer, write "Self-represented" on the "Attorney for" line on all court forms.

Fill out your forms completely and accurately. If something does not apply to you, write "N/A." This means "not applicable."

Sign each form where your signature is requested. Use blue or black ink only. Notice if the form is asking you to sign it "under penalty of perjury," which means that when you sign it, you are swearing that what is on the form is true and correct to the best of your knowledge.

Fill out your forms 1 section at a time. If you have questions about a section, leave it blank until you can get your questions answered.

If you need help filling out your forms, you can ask the court's [self-help center](#) or a lawyer, or go to a [public law library](#) and ask the librarian for books that can help you (or use the [Ask the Law Librarian](#) service).

Make copies of all your forms. If a form has writing on both sides, make sure you copy both sides. Always keep a copy for yourself.

Keep a clean copy of all of your court papers in a folder in a safe place.

Bring your folder with you every time you go to the clerk's office, a court hearing, the court's self-help center or facilitator's office, or if you go see a lawyer.

Non-form Pleadings

Sometimes there will not be a Judicial Council form for what you need to do. In that case, you will need to draft or create your own legal document, in the right format and following the court's rules. The California Rules of Court, starting with [rule 2.100](#), tell you what is required for any documents you file with the court.

You will have to start with "pleading paper." Your word processing program may have a template for pleading paper. Or ask your court's [self-help center](#), [family law facilitator](#) or [public law library](#) for a sample or blank pleading paper.



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

Adapting Judicial Council Forms for Tribal Courts

Tribal courts can request assistance from the Tribal/State Programs Unit to adapt current Judicial Council forms for tribal court use. To view Judicial Council forms that have been adapted for tribal court use, please visit: <http://www.courts.ca.gov/12568.htm>

DRAFT



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FACT SHEET

September 2007

How a Proposal Becomes a Rule

The Judicial Council is authorized by the California Constitution to adopt rules for court administration, practice, and procedure that are not inconsistent with statute. (Cal. Const., art. VI, § 6.) Rules, forms, and standards of judicial administration are circulated for comment twice a year, for adoption effective January 1 and July 1. Generally, the council follows the procedure described below. (Cal. Rules of Court, rules 10.20–10.22.)

Submission of a Proposal

Many of the changes to the California Rules of Court and Judicial Council forms are made in response to changes in the law. However, any person or organization may submit a request for a new or amended rule of court, form, or standard of judicial administration. It is helpful if the proposal includes:

- The text of the proposed rule, standard, form, or amendment;
- A description of the problem to be addressed;
- The proposed solution and alternative solutions;
- Any likely implementation problems;
- Any need for urgent consideration;
- Known proponents and opponents;
- Any known fiscal impact; and
- If known, any previous action taken by the Judicial Council or an advisory committee.

Mail, fax, or e-mail proposals to Judicial Council of California, Attention: General Counsel (Rule/Form Proposal), 455 Golden Gate Avenue, San Francisco, California 94102-3688; fax: 415-865-7664; e-mail: legal-services@jud.ca.gov.

Advisory Committee Review

An advisory committee (for example, a committee of court executives or a committee on civil, criminal, or family law) analyzes the proposal and may take one of the following actions:

- Recommend to the Judicial Council’s Rules and Projects Committee that the proposal be circulated for public comment, with or without modification, or that it be adopted without being circulated for comment;
- Request further analysis by the proponent; or
- Reject the proposal.

Rules and Projects Review

The Rules and Projects Committee reviews the advisory committee’s request or recommendation and may take one of the following actions:

- Circulate the proposal for public comment, with or without modification;
- Recommend that the Judicial Council adopt it without circulating it for comment if the proposal presents a noncontroversial or a nonsubstantive, technical change or correction;
- Request further analysis by the advisory committee or the proponent;
- Refer the matter to another council committee, the full council, or the Chief Justice; or
- Reject the proposal if it is contrary to council policy or to statute or conflicts with other rules or standards.

Comments and Consideration

After the comment period closes, the advisory committee considers the comments and may:

- Recommend adoption of the original proposal;
- Modify the proposal and recommend adoption of the modified version;
- Study and analyze the proposal further; or
- Reject the proposal.

Final Action

If the advisory committee recommends adoption of a new or amended rule, form, or standard of judicial administration, the matter is placed on the Judicial Council's agenda. The Rules and Projects Committee reviews the advisory committee's recommendation and submits its own recommendation to the council. The council may adopt, modify, or reject the proposed rule, form, or standard—which, if adopted, usually becomes effective the following January 1 or July 1.

If compelling circumstances necessitate a different procedure from that just outlined, the Rules and Projects Committee presents its findings and a summary of the procedure, along with any recommendation to the Judicial Council.

Contact:

Camilla Kieliger, Court Services Analyst, camilla.kieliger@jud.ca.gov

To comment on proposed changes during a comment period, please visit

www.courts.ca.gov/policyadmin-invitationstocomment.htm or fax to 415-865-7664

Additional resources:

Recent rule changes, www.courts.ca.gov/3025.htm

Amendment schedule, www.courts.ca.gov/xbcr/cc/itschedule.pdf

Current California Rules of Court, www.courts.ca.gov/rules.htm

Current Judicial Council forms, www.courts.ca.gov/forms.htm

What if I do not see the type of local educational or technical assistance my court needs?

- ◆ Any assistance focusing on tribal-state-county collaboration—At the request of judges, Tribal/State Programs Unit staff will tailor an educational event to meet local educational needs or provide technical assistance in response to locally identified and targeted needs.

How to learn about local tribal courts and state courts?

To learn if there's a tribal court in your county, please visit the California Tribal Courts Directory (www.courts.ca.gov/14400.htm) or the tribal jurisdictions map (<http://g.co/maps/cvdq8>).

To learn about the local state court in your county, please visit Find My Court www.courts.ca.gov/find-my-court.htm.

What steps can judges take to improve safety for Native victims?

- ◆ Directly communicate with each other and identify issues of mutual concern.
- ◆ Invite each other to observe court proceedings.
- ◆ Invite each other to participate in justice system meetings or work with each other's justice partners.
- ◆ Learn about each other's courts and procedures.
- ◆ Jointly conduct local or regional trainings.
- ◆ Understand the unique historical trauma responses of Native Americans.

FOR MORE INFORMATION

The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts assists the state judicial branch with the development of policies, positions, and programs to promote the highest quality of justice and service for California's Native American communities in all case types. The unit also implements tribal-state programs that improve the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps. To learn more about the Tribal/State Programs Unit or for assistance, call Jennifer Walter at 415-865-7687 or visit www.courts.ca.gov/programs-tribal.htm.

This project is supported with funds from the Office on Violence Against Women, U.S. Department of Justice that are administered through the Governor's Office of Emergency Services (Cal OES).

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S.T.E.P.S. TO JUSTICE— DOMESTIC VIOLENCE

State/Tribal Education,
Partnerships, and
Services—Information for
Tribal Court and
State Court Judges

November 2014



JUDICIAL COUNCIL
OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

This project sets aside funds to provide local educational and technical assistance to tribal and state courts on issues relating to domestic violence.

What is the extent of the problem of domestic violence?

Domestic violence is a particularly troubling issue in Native American communities.

- ◆ 39% of American Indian women report some form of intimate partner violence in their lifetimes, higher than the rate reported by any other race or ethnic group.
- ◆ American Indian victims of intimate and family violence are more likely than victims of other racial groups to be seriously injured and require hospital care.
- ◆ Among American Indian victims of violence, 75% of intimate victimizations and 25% of family victimizations involve an offender of a different race.

For detailed statistics and citations, www.courts.ca.gov/documents/Tribal-NAmericanStatsAbstract.pdf.

What type of local educational assistance is offered?

- ◆ **Faculty**—Identify faculty or pay for travel or other faculty costs.
- ◆ **Facilitator**—Obtain a facilitator for a training or meeting, which brings together tribal and non-tribal representatives.
- ◆ **Educational Materials**—Gather, copy, or develop educational materials.
- ◆ **Educational Curriculum**—Use or tailor our curriculum (i.e., P.L. 280, tribal advocates, Comings and Goings etc.).
- ◆ **Train-the-Trainers**—Train local experts.
- ◆ **Educational Training or Workshop**—Develop a program—brown bag, workshop, or full-day training.

- ◆ **Judge-to-Judge or Court-to-Court**—Structured opportunities for connecting tribal and state court judges or court administrators so that they can learn from each other (e.g., court observations, participation in justice system meetings, sharing information on court operations and procedures).
- ◆ **Cross-Court Educational Exchange**—Convene an educational exchange to learn about each other's courts, share resources, identify local court concerns, and implement local and statewide solutions.
- ◆ **Coordinated Court-Community Responses**—Assistance with tribal/state/county engagement (e.g., help with engaging participation at a domestic violence coordinating council, task force, or other system meeting).

What type of technical assistance is available to support tribal capacity-building?

- ◆ **Judicial Council Forms**—Accessing state judicial branch forms so that they may be used as a basis for creating tribal court forms.
- ◆ **California Courts Protective Order Registry**—Accessing this registry and receiving training on how to use it. Through this dedicated online database, state courts and tribal courts can view each other's protective orders. The courts that have access are better able to protect the public, particularly victims of domestic violence, and avoid issuing redundant or conflicting orders. Learn more at www.courts.ca.gov/15574.htm.

- ◆ **Registering Tribal Protective Orders**—Assistance developing a local protocol or rule to implement California Rules of Court, rule 5.386, which requires state courts, at the request of a tribal court, to adopt a written procedure or local rule permitting the fax or electronic filing of any tribal court protective order that is entitled to be registered under Family Code section 6404. Learn more about the new rule at www.courts.ca.gov/documents/SPR11-53.pdf.
- ◆ **Online Resources**
 - Court Extranet:** This website contains information relevant to all levels of judicial branch personnel and includes resources designed to meet education, facilities, financial, human resources, legal, special court projects, technology, and other informational needs. It also offers both current news and archived resources.
 - CJER Online:** This website contains educational and other resources for state court judges and tribal court judges. It offers a calendar listing judicial institutes.
 - Dependency Online Guide:** This website contains dependency-related case law, legal materials, articles, and other resources.
- ◆ **Attendance at Judicial Institutes**—All state judicial branch educational programs are open to tribal court judges and offer continuing legal educational credit. There may be limited funding for scholarships to pay for travel expenses.
- ◆ **Security**—Consultation on court security.
- ◆ **Human Resources**—Consultation on court human resource questions.
- ◆ **Letters of Support for Domestic Violence Grant Applications.**

Looking for services for Native American children and families?

www.courts.ca.gov/5807.htm

What steps can judges take to improve child welfare outcomes for Native children and families?

- ◆ Regularly collect and track data on these cases.
- ◆ Ongoing and meaningful collaboration among courts, child welfare agencies, and tribes
- ◆ Ongoing education for all court system participants
- ◆ Organize court operations and personnel to reflect the specialized knowledge needed and lessons learned from data collection

These steps are based on the Pew Commission recommendations and Court Reform and American Indian and Alaskan Native Children, see www.ncjfcj.org/resource-library/publications/court-reform-and-american-indian-and-alaskan-native-children

What if I do not see the type of service my court needs?

Contact us because we will tailor our services to meet your court's needs.

FOR MORE INFORMATION

The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts assists the state judicial branch with the development of policies, positions, and programs to promote the highest quality of justice and service for California's Native American communities in all case types. The unit also implements tribal-state programs that improve the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps. To learn more about the Tribal/State Programs Unit or for assistance, call Jennifer Walter at 415-865-7687 or visit www.courts.ca.gov/programs-tribal.htm.

This project is supported with funds from the California Department of Social Services.

www.courts.ca.gov/3067.htm

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S.T.E.P.S. TO JUSTICE— CHILD WELFARE

State/Tribal Education,
Partnerships, and Services—
Information for Tribal Court
and State Court Judges

March 2015



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JUDICIAL COUNCIL
OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

What is ICWA?

ICWA is a federal law that seeks to keep Native American children within their cultures and communities. Congress passed ICWA in 1978 in response to the alarmingly high number of Indian children being removed from their homes by both public and private agencies. The intent of Congress was to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families” (25 U.S.C. § 1902). ICWA sets minimum federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe.

Why is it relevant today?

Nationally, Native American children still disproportionately enter into foster care. In California, Native American children are overrepresented in the foster care system at a rate of 1.3 to 2.0. That means that, in California, the proportion of Native American children in foster care may be nearly twice as high as the proportion in the general population.

For more information about disproportionality, see www.ncjfcj.org/resource-library/publications/disproportionality-rates-children-color-foster-care-2013-technical


What legal services are offered?

Domestic violence is a particularly troubling issue in Native American communities.

- ◆ Job aids
www.courts.ca.gov/8103.htm
- ◆ Law and regulations
www.courts.ca.gov/8709.htm
- ◆ Qualified expert witnesses
www.courts.ca.gov/8105.htm
- ◆ Distance learning opportunities
www.courts.ca.gov/8075.htm#tab15022
- ◆ Curriculum
www.courts.ca.gov/8075.htm#tab14468
- ◆ Tribal customary adoption
www.courts.ca.gov/12569.htm

What court services are offered?

- ◆ Education on the following topics:
 - When ICWA applies
 - Exclusive versus concurrent jurisdiction
 - Duty of inquiry
 - Determination of tribal membership or eligibility for membership
 - Notice to tribes
 - Tribal participation and intervention
 - Active efforts, including culturally appropriate services
 - Cultural case planning
 - Placement preferences
 - Qualified expert witnesses
 - Historical trauma
- ◆ Tribal engagement
- ◆ Needs assessment
- ◆ Courtesy file review
- ◆ Tribal/State/County collaboration
- ◆ Connecting to Tribal-specific services



Disproportionality Rates for Children of Color in Foster Care
2013 Technical Assistance Bulletin
June 14, 2013

Since 2011, the NCJFCJ has published *Disproportionality Rates for Children of Color in Foster Care Technical Assistance Bulletins*, which identify the disproportionality rates for all state and select Model Courts across the country. The reports have gained national attention and have been used in a number of ways by a broad spectrum of stakeholders and interested parties. Due to the ongoing need...

[MORE](#)

Are there Native Americans in my county?

The July 2011 *Research Update** on the Native American population of California includes a number of demographic facts:

- ◆ California is home to 12 percent of the total Native American population of the United States, more than any other state.
- ◆ More than half of California's Native Americans belong to tribes originating in other states; Cherokee represent the state's largest tribal population (18 percent), followed by Apache (6 percent), and Navajo and Choctaw (5 percent each).
- ◆ Only 3 percent of Native Americans in California live on reservations or rancherias.

How can judges from tribal and state courts work together to benefit California's tribal communities?

- ◆ Contact your counterpart in the other court and suggest swapping invitations to observe court proceedings, participate in justice system meetings, and learn more about one another's courts and procedures.
- ◆ Communicate directly with the other court to identify and resolve issues of mutual concern.
- ◆ Convene cross-jurisdictional meetings with law enforcement agencies and other justice partners.
- ◆ Conduct joint local or regional trainings to address issues common to your justice systems.

* www.courts.ca.gov/documents/Tribal-ResearchUpdate-NAStats.pdf

FOR MORE INFORMATION

The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts, provides support to local courts on tribal issues and assists with the development of policies, positions, and programs to ensure the highest quality of justice and service for California's Native American communities. The unit also serves as a liaison to those communities in cases relating to the Indian Child Welfare Act (ICWA) and family violence matters.

To learn more about the Tribal/State Programs Unit or for assistance with issues related to a tribal matter, call Jennifer Walter at 415-865-7687 or visit www.courts.ca.gov/programs-tribal.htm

RECOGNITION AND ENFORCEMENT OF TRIBAL PROTECTIVE ORDERS

Information for tribal court and state court judges on matters involving domestic violence

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JUDICIAL COUNCIL
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CENTER FOR FAMILIES, CHILDREN & THE COURTS

This pamphlet is intended to help tribal court and state court judges learn more about the recognition and enforcement of each other's protective orders in matters where domestic violence affects individuals of American Indian or Alaskan Native heritage.

What is the extent of the problem of domestic violence among Native Americans?

Domestic violence is a particularly troubling issue in Native American communities.

- ◆ 39% of American Indian women report some form of intimate partner violence in their lifetimes, higher than the rate reported by any other race or ethnic group.
- ◆ American Indian victims of intimate and family violence are more likely than victims of other racial groups to be seriously injured and require hospital care.
- ◆ Among American Indian victims of violence, 75% of intimate victimizations and 25% of family victimizations involve an offender of a different race.

For detailed statistics and citations, see the Judicial Council's Native American Statistical Abstract: Violence and Victimization (January 2012) at www.courts.ca.gov/documents/Tribal-NAmericanStatsAbstract.pdf.

What is the federal Violence Against Women Act (VAWA)?

The federal Violence Against Women Act, or VAWA (42 U.S.C. chapter 136, subchapter III), was enacted by Congress in 1994 to address the problem of states' inconsistent enforcement of domestic violence laws. VAWA's purpose is "to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law." Congress amended the act in 2000 and 2005.

Full Faith and Credit. Both VAWA and California law mandate full faith and credit for protective orders issued by tribal courts in accordance with VAWA requirements. (See 18 U.S.C. § 2265; and California's Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (Fam. Code, §§ 6400–6409).)

Under these laws, a protective order issued by a tribal or sister-state court is entitled to full faith and credit and enforcement and does not need to be registered in California.

What challenges may hinder enforcement of protective orders for Native Americans?

In practice, despite the full faith and credit mandate, many law enforcement agencies and officers will not enforce a protective order unless it can be verified in the California Restraining and Protective Orders System (CARPOS) through the California Law Enforcement Telecommunication System (CLETS). State and county law enforcement agencies have access to CLETS and can enter and view protective orders, but most tribal law enforcement agencies do not have access. Absent a local law enforcement protocol or the state court's registering a tribal protective order, it will not be entered in CARPOS.

Another challenge is to avoid conflicting or redundant protective orders issued by tribal courts and state courts.

What solutions exist to these challenges?

The California Tribal Court–State Court Forum, established in May 2010, discussed these issues and recommended two viable solutions, see below.

Efficient and consistent process. Effective July 1, 2012, rule 5.386 of the California Rules of Court requires all state courts, upon request by a tribal court, to adopt a written procedure or local rule permitting the fax or electronic filing of any tribal court protective order entitled under Family Code section 6404 to be registered. Learn more at www.courts.ca.gov/documents/SPR11-53.pdf.

California Courts Protective Order Registry. Through this dedicated online database, state courts and tribal courts can view each other's protective orders. Courts that have access to the registry are better able to protect the public, particularly victims of domestic violence, and avoid issuing conflicting orders. Learn more at www.courts.ca.gov/15574.htm.

Is there a tribal court in my jurisdiction?



CALIFORNIA COURTS

THE JUDICIAL BRANCH OF CALIFORNIA

[close this page](#)

Waiver of Fees

In most civil cases, you have to pay a fee to file a notice of appeal or other paper that starts the proceeding. If you are respondent in a proceeding in the Court of Appeal or Supreme Court, in most cases, you will have to pay a fee when you file your first paper in that court. You may also have to pay other court fees in these proceedings, such as fees to prepare or get a copy of a clerk's transcript in an appeal or for the court to hold a deposit for a court reporter's transcript. If you cannot afford the filing fee or other court costs, you may qualify to have these fees and costs waived by the court. This section gives you more information about asking the court for a fee waiver.

The California laws about fee waivers are in [California Government Code sections 68630 through 68641](#)

Asking for a fee waiver

If you are low income and cannot afford to pay the fee to file your court papers or other court fees, you can ask for a fee waiver.

There are 3 ways to qualify for a fee waiver:

- If you are receiving public benefits, like Medi-Cal, food stamps, CalWorks, General Assistance, SSI, SSP, Tribal TANF, IHHS, or CAPI;
- If your household income, before taxes, is less than the amounts listed on [Form FW-001](#) in item 5b, or
- If the court finds that you do not have enough income to pay for your household's basic needs AND the court fees.

To ask for a fee waiver

First, read the *Information Sheet on Waiver of Appellate Court Fees* ([Form APP-015 / FW-015-INFO](#)) and choose from the options below that best fit your situation:

[expand all](#) [collapse all](#)

[For an appeal in a limited civil case \(a civil case involving an amount that is \\$25,000 or less\)](#)

[For an appeal in an unlimited civil case \(such as a civil case involving an amount over \\$25,000 or a family law case\)](#)

[For a petition for a writ in a limited or unlimited civil case](#)

[For a petition for review in the Supreme Court in a civil case \(including family law\)](#)

If your fee waiver request is granted

If you qualify for a fee waiver, the appellate court will waive:

- The filing fee for a:
 - Notice of appeal
 - Petition for a writ
 - Petition for review
 - The first document filed in the Court of Appeal by a party other than the party who filed the notice of appeal or petition
- Any court fee for having your oral argument by telephone.

The trial court will waive:

- The appellant's cost for preparing, copying, and certifying the clerk's transcript, sending the original to the appellate court and a copy to you, and processing the deposit required under [California Government Code section 68926.1](#) ;
- The respondent's cost for getting a copy of the clerk's transcript; and
- Any fees for making a transcript or copy of an official electronic recording under [California Rule of Court 8.835](#).

When it grants a fee waiver, the trial court also may, but is not required to, waive other necessary court fees

or expenses that are itemized in the fee waiver application, such as the fee for holding a deposit for a court reporter's transcript.

Even if you qualify for a fee waiver, the court cannot waive the fees for preparing a reporter's transcript in a civil case because this is a fee charged by the reporter, not the court. There is a special fund called the "[Transcript Reimbursement Fund](#)" that may help you pay for your transcript. (See the [Transcript Reimbursement Fund \(TRF\)](#) information and [Business and Professions Code sections 8030.2-8030.8](#) for more information.) If you cannot pay for a reporter's transcript, you can prepare a record of the oral proceedings in other ways. Click to find out how to [prepare a record of oral proceedings](#).

If your fee waiver request is denied

Your fee waiver application may be denied for 1 of 3 reasons:

- It is incomplete, or
- From your application, the court decided you are not eligible for the fee waiver, or
- The court has a substantial question about whether you are eligible for the fee waiver.

The judge will indicate the reason for denying your request on the court's fee waiver order. If your fee waiver is denied, you have 10 days from the date the order is mailed or personally delivered to you to:

1. Pay your fees, or
2. Do what the court ordered in the fee waiver order, like filing a new fee waiver request or providing additional information requested by the court.

If you do not do 1 of these 2 things within the 10 days and you are the appellant, your appeal may be dismissed.

If the court denies your fee waiver but sets a hearing

If the court wants more information to make a decision on your fee waiver, the court may set up a hearing date for you. The information about the hearing (like the date, time, and location) will be on the fee waiver order.

Make sure you go to that hearing. Bring with you any documents that the court tells you to bring. The court will tell you what documents it wants you to bring on the fee waiver order.

If you do not go to this court hearing, your fee waiver application will be denied and you will have to pay your fees in 10 days.

After Getting the Fee Waiver

Once you get a fee waiver, and as long as your financial situation remains the same, you do not have to do anything related to the fees. BUT if your finances improve or you can now afford to pay the court fees and costs, you have to tell the court within 5 days. Fill out a *Notice to Court of Improved Financial Situation or Settlement* ([Form FW-010](#)) and file it with the clerk of the court handling your case.

Also, you may get a *Notice to Appear for Reconsideration of Fee Waiver* ([Form FW-011](#)). This is a notice from the court to go to a hearing to reconsider your fee waiver. The court sends this notice if it thinks your financial situation may have changed or you are abusing the fee waiver. Make sure you go to this court date, or your fee waiver may be canceled and you may have to repay fees that were waived.

It is possible that you may have to pay the fees that were waived in some cases. See below for information on "[Paying back waived fees](#)" to find out more.

Fee waivers expire 60 days after the judgment or dismissal or after the case is finished in some other way. Waivers can also end if the court finds that you are no longer eligible for one.

Paying Back Waived Fees

In some cases, even if your fees are waived, you may have to pay them back later.

- If your financial circumstances improve during your case, the court may order you to pay back any fees that were waived after your eligibility ended.
- If the trial court waived your fees in a civil case and you settle with the other side for \$10,000 or more, you will have to pay any waived fees. The court will put a lien on your settlement to pay these fees. And the court will not dismiss the case until the fees have been paid

Read the *Information Sheet on Waiver of Appellate Court Fees* ([Form APP-015/FW-015-INFO](#)).

INFORMATION SHEET ON WAIVER OF SUPERIOR COURT FEES AND COSTS

If you have been sued or if you wish to sue someone, or if you are filing or have received a family law petition, and if you cannot afford to pay court fees and costs, you may not have to pay them in order to go to court. If you are getting public benefits, are a low-income person, or do not have enough income to pay for your household's basic needs *and* your court fees, you may ask the court to waive all or part of your court fees.

1. To make a request to the court to waive your fees in superior court, complete the *Request to Waive Court Fees* (form FW-001). If you qualify, the court will waive all or part of its fees for the following:
 - Filing papers in superior court (other than for an appeal in a case with a value of over \$25,000)
 - Making and certifying copies
 - Sheriff's fee to give notice
 - Court fee for telephone hearing
 - Reporter's fee for attendance at hearing or trial, if a reporter is provided by the court.
 - Assessment for court investigations under Probate Code section 1513, 1826, or 1851.
 - Preparing, certifying, copying, and sending the clerk's transcript on appeal.
 - Holding in trust the deposit for a reporter's transcript on appeal under rule 8.833 or 8.834.
 - Making a transcript or copy of an official electronic recording under rule 8.835
 - Giving notice and certificates
 - Sending papers to another court department
 - Having a court-appointed interpreter in small claims court
2. You may ask the court to waive other court fees during your case in superior court as well. To do that, complete a *Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The court will consider waiving fees for items such as the following, or other court services you need for your case:
 - Jury fees and expenses
 - Fees for court-appointed experts
 - Other necessary court fees
 - Fees for a peace officer to testify in court
 - Court-appointed interpreter fees for a witness
3. If you want the Appellate Division of Superior Court or the Court of Appeal to review an order or judgment against you and you want the court fees waived, ask for and follow the instructions on *Information Sheet on Waiver of Appellate Court Fees, Supreme Court, Court of Appeal, Appellate Division* (form APP-015/FW-015-INFO).

IMPORTANT INFORMATION!

- **You are signing your request under penalty of perjury. Answer truthfully, accurately, and completely.**
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **Public benefits programs listed on the application form.** In item 5 on the *Request to Waive Court Fees*, there is a list of programs from which you may be receiving benefits, listed by the abbreviations they are commonly known by. The full names of those programs can be found in Government Code section 68632(a), and are also listed here:
 - Medi-Cal
 - Food Stamps—California Food Assistance Program, CalFresh Program, or SNAP
 - Supp. Sec. Inc.—Supplemental Security Income (not Social Security)
 - SSP—State Supplemental Payment
 - County Relief/General Assistance—County Relief, General Relief (GR) or General Assistance (GA)
 - IHSS—In Home Supportive Services
 - CalWORKS—California Work Opportunity and Responsibility to Kids Act
 - Tribal TANF—Tribal Temporary Assistance for Needy Families
 - CAPI—Cash Assistance Program for Aged, Blind, or Disabled Legal Immigrants
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court within five days if your finances improve or if you become able to pay court fees or costs during this case. (File *Notice to Court of Improved Financial Situation or Settlement* (form FW-010) with the court.) You may be ordered to repay any amounts that were waived after your eligibility came to an end.
- **If you receive a judgment or support order in a family law matter:** You may be ordered to pay all or part of your waived fees and costs if the court finds your circumstances have changed so that you can afford to pay. You will have the opportunity to ask the court for a hearing if the court makes such a decision.

- **If you win your case in the trial court:** In most circumstances the other side will be ordered to pay your waived fees and costs to the court. The court will not enter a satisfaction of judgment until the court is paid. (This does not apply in unlawful detainer cases. Special rules apply in family law cases. (Government Code, section 68637(d), (e).))
- **If you settle your civil case for \$10,000 or more:** Any trial court waived fees and costs must first be paid to the court out of the settlement. **The court will have a lien on the settlement in the amount of the waived fees and costs.** The court may refuse to dismiss the case until the lien is satisfied. A request to dismiss the case (use form CIV-110) must have a declaration under penalty of perjury that the waived fees and costs have been paid. Special rules apply to family law cases.
- **The court can collect fees and costs due to the court.** If waived fees and costs are ordered paid to the trial court, or if you fail to make the payments over time, the court can start collection proceedings and add a \$25 fee plus any additional costs of collection to the other fees and costs owed to the court.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or earlier if a court finds that you are not eligible for a fee waiver.
- **If you are in jail or state prison:** Prisoners may be required to pay the full cost of the filing fee in the trial court but may be allowed to do so over time. See Government Code section 68635.

Clerk stamps date here when form is filed.

If you are getting public benefits, are a low-income person, or do not have enough income to pay for household's basic needs, use this form to ask the court to waive all or part of the court fees. The court may order you to answer questions about your finances. If the court waives the fees, you may still have to pay later if:

READ this carefully!

SAMPLE ONLY

Do not fill out this form

Write in the court address here

- You cannot give the court proof of your eligibility,
Your financial situation improves during this case, or
You settle your civil case for \$10,000 or more.

Fi
S

Fill in case number and name:

Case

Write your Case Number here

Case Name:

Write your Case Name here

number, and State Bar number):

1 Your Information (person asking the court to waive the fees):

Name:
Street or mailing address:
City: State: Zip:
Phone number:

2 Your Job, if you have one (job title):

Name of employer:
Employer's address:

Complete items #1, #2 & #4.

3 Your Lawyer Fill out #3 if you have a lawyer.

a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): Yes No

b. (If yes, your lawyer must sign here) Lawyer's signature:

If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.

4 What court's fees or costs are you asking to be waived?

- Superior Court (See Instructions)
Supreme Court, Court of Appeal, or Court of Appellate Court Fees

For question 5, check 'a', 'b', OR 'c':

If you check # 5a, just make sure you check any box that applies to you in 5a.

5 Why are you asking the court to waive the fees?

- I receive (check all that apply): IHSS (Medi-Cal) Assistance for Needy Families
My gross monthly household income is less than \$2,000. (If you check 5b, you must fill out 7, 8, and 9 on page 2 of this form.)

If you check # 5b, fill out # 7,8 and 9 on the back. Then, you are done!

If you check #5c, fill out everything on back side of the form.

Table with 7 columns: Family Size, Family Income, Family Size, Family Income, Family Size, Family Income, and a note: If more than 6 people at home, add \$422.92 for each extra person.

c. I do not have enough income to pay for my household's basic needs and the court fees. I ask the court to (check one): waive all court fees waive some of the court fees let me make payments over time (Explain):

6 Check here if you asked for a fee waiver in this case in the last 6 months. (If your previous request was denied, check here.)

Check #6 if you asked for a fee waiver in this case in the last 6 months. Attach that request if you have it and check the second box.

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct.

Date: Write Today's Date here

Print Your Name here

Sign Here

Print your name here

Sign here

Print Your Name here

Case Number:

Write your Case Number here

Your name: _____

If you checked 5a on page 1, do not fill out below. If you checked 5b, fill out questions 7, 8, and 9 only. If you checked 5c, you must fill out this entire page. If you need more space, attach form MC-025 or attach a sheet of paper and write Financial Information and your name and case number at the top.

7 Check here if your income changes a lot from month to month. Fill out below based on your average income for the past 12 months.

8 Your Monthly Income

a. Gross monthly income (before deductions): \$ _____ List each payroll deduction and amount below:

- (1) \$ _____
(2) \$ _____
(3) _____
(4) _____

b. Total deduction _____

c. Total monthly tax _____

d. List the source of your income for each month, including Social Security, disability, quarters (BAQ), income, annuity, reimbursement, winnings, etc.

- (1) _____
(2) _____
(3) \$ _____
(4) \$ _____

e. Your total monthly income is (8c plus 8d): \$ _____

9 Household Income

a. List all other persons living in your home and their income; include only your spouse and all individuals who depend in whole or in part on you for support, or on whom you depend in whole or in part for support.

Table with columns: Name, Age, Relationship, Gross Monthly Income. Rows 1-4.

b. Total monthly income of persons above: \$ _____

Total monthly income and household income (8e plus 9b): \$ _____

10 Your Money and Property

- a. Cash \$ _____
b. All financial accounts (List bank name and amount):
(1) \$ _____
(2) \$ _____
(3) \$ _____
(4) \$ _____

Table with columns: Describe, Fair Market Value, How Much You Still Owe. Rows 1-3.

If you checked # 5b, fill out # 7,8 and 9. You do not have to fill out #10 and #11.

If you checked #5c, fill out everything on this side of the form.

When you answer the items in this page, make sure you fill out everything and that the information is true and complete.

To list any other facts you want the court to know, such as unusual medical expenses, family emergencies, etc., attach form MC-025. Or attach a sheet of paper, and write Financial Information and your name and case number at the top. Check here if you attach another page.

Important! If your financial situation or ability to pay court fees improves, you must notify the court within five days on form FW-010.

11 Your Monthly Expenses

(Do not include payroll deductions you already listed in 8b.)

- a. Rent or house payment & maintenance \$ _____
b. Food and household supplies \$ _____
c. Utilities and telephone \$ _____
d. Clothing \$ _____
e. Laundry and cleaning \$ _____
f. Medical and dental expenses \$ _____
g. Insurance (life, health, accident, etc.) \$ _____
h. School, child care \$ _____
i. Child, spousal support (another marriage) \$ _____
j. _____
k. _____

READ this notice carefully!

If you want to add any more information, attach form MC-025 or a piece of paper, with your name, case number and write "Financial Information" at the top. Don't forget to check the box in here telling the court you have attached another page.

- l. _____
m. _____
(2) \$ _____
(3) \$ _____

Total monthly expenses (add 11a -11m above): \$ _____

INFORMATION SHEET ON WAIVER OF APPELLATE COURT FEES (SUPREME COURT, COURT OF APPEAL, APPELLATE DIVISION)

If you file an appeal, a petition for a writ, or a petition for review in a civil case, such as a family law case or a case in which you sued someone or someone sued you, you must generally pay a filing fee to the court. If you are a party other than the party who filed the appeal or the petition, you must also generally pay a fee when you file your first document in a case in the Court of Appeal or Supreme Court. You and the other parties in the case may also have to pay other court fees in these proceedings, such as fees to prepare or get a copy of a clerk's transcript in an appeal. However, if you cannot afford to pay these court fees and costs, you may ask the court to issue an order saying you do not have to pay these fees (this is called "waiving" these fees).

1. Who can get their court fees waived? The court will waive your court fees and costs if:

- **You are getting public assistance**, such as Medi-Cal, Food Stamps, Supplemental Security Income (not Social Security), State Supplemental Payment, County Relief/General Assistance, In-Home Supportive Services, CalWORKS, Tribal Temporary Assistance for Needy Families, or Cash Assistance Program for Aged, Blind, and Disabled.
- **You have a low income level.** Under the law you are considered a low-income person if the gross monthly income (before deductions for taxes) of your household is less than the amount listed below:

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,226.05	3	\$2,092.71	5	\$2,959.38
2	\$1,659.38	4	\$2,526.05	6	\$3,392.71

If more than 6 people at home, add \$433.34 for each extra person.

- **You do not have enough income to pay for your household's basic needs *and* your court fees .**

2. What fees and costs will the court waive? If you qualify for a fee waiver, the Supreme Court, Court of Appeal, or Appellate Division will waive the filing fee for the notice of appeal, a petition for a writ, a petition for review, or the first document filed by a party other than the party who filed the appeal or petition, and any court fee for participating in oral argument by telephone. The trial court will also waive costs related to the clerk's transcript on appeal, the fee for the court to hold in trust the deposit for a reporter's transcript on appeal under rule 8.130(b) or rule 8.834(b) of the California Rules of Court, and the fees for making a transcript or copy of an official electronic recording under rule 8.835. If you are the appellant (the person who is appealing the trial court decision), the fees waived include the deposit required under Government Code section 68926.1 and the costs for preparing and certifying the clerk's transcript and sending the original to the reviewing court and one copy to you. If you are the respondent (a party other than the appellant in a case that is being appealed), the fees waived include the costs for sending you a copy of the clerk's transcript. You can also ask the trial court to waive other necessary court fees and costs.

The court **cannot** waive the fees for preparing a reporter's transcript in a civil case. A special fund, called the Transcript Reimbursement Fund, may help pay for the transcript. (See <http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf> and Business and Professions Code sections 8030.2 and following for more information about this fund.) If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by preparing an agreed statement or, in some circumstances, a statement on appeal or settled statement.

3. How do I ask the court to waive my fees?

- **Appeal in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** In a limited civil case, if the trial court already issued an order waiving your court fees *and that fee waiver has not ended* (fee waivers automatically end 60 days after the judgment), the fees and costs identified in item 2 above are already waived; just give the court a copy of your current fee waiver. If you do not already have an order waiving your fees or you had a fee waiver but it has ended, you must complete and file a *Request to Waive Court Fees* (form FW-001). If you are the appellant (the party who is appealing), you should check both boxes in item 4 on FW-001 and file the completed form with your notice of appeal. If you are the respondent (a party other than the appellant in a case that is being appealed), the completed form should be filed in the court when the fees you are requesting to be waived, such as the fee for the clerk's transcript or telephonic oral argument, are due.

- **Writ Proceeding in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** If you want the Superior Court to waive the fees in a writ proceeding in a limited civil case, you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box. The completed form should be filed with your petition for a writ.
- **Appeal in Other Civil Cases.** If you want the court to waive fees and costs in an appeal in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box to ask the Court of Appeal to waive the fee for filing the notice of appeal or, if you are a respondent (a party other than the one who filed the appeal), the fee for the first document you file in the Court of Appeal. Check both boxes if you also want the trial court to waive your costs for the clerk's transcript (if the trial court already issued an order waiving your fees *and that fee waiver has not ended*, you do not need to check the first box; the fees and costs identified in item 2 above are already waived, just give the court a copy of your current fee waiver). If you are the appellant, the completed form should be submitted with your notice of appeal (if you check both boxes in item 4, the court may ask for two signed copies of this form). If you are the respondent, the completed form should be submitted at the time the fee you are asking the court to waive is due. For example, file the form in the trial court with your request for a copy of the clerk's transcript if you are asking the court to waive the transcript fee or file the form in the Court of Appeal with the first document you file in that court if you are asking the court to waive the fee for filing that document. To request waiver of a court fee for telephonic oral argument, you should file the completed form in the Court of Appeal when the fee for telephonic oral argument is due.
- **Writ Proceeding in Other Civil Cases.** If you want the Supreme Court or Court of Appeal to waive the fees and costs in a writ proceeding in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner (the party filing the petition), the completed form should be submitted with your petition for a writ in the Supreme Court or Court of Appeal clerk's office. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court or Court of Appeal.
- **Petition for Review.** If you want to request that the Supreme Court waive the fees in a petition for review proceeding, you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner, you should submit the completed form with your petition for review. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court.

IMPORTANT INFORMATION!

- **Fill out your request completely and truthfully.** When you sign your request for a fee waiver, you are declaring under penalty of perjury that the information you have provided is true and correct.
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court immediately if your finances improve or if you become able to pay court fees or costs during this case (file form FW-010 with the court). You may be ordered to repay any amounts that were waived after your eligibility ended. If the trial court waived your fees and costs and you settle your case for \$10,000 or more, the trial court will have a lien on the settlement in the amount of the waived fees.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or when the court finds that you are not eligible for a fee waiver.

GOVERNMENT CODE

SECTION 68630-68641

68630. The Legislature finds and declares all of the following:

(a) That our legal system cannot provide "equal justice under law" unless all persons have access to the courts without regard to their economic means. California law and court procedures should ensure that court fees are not a barrier to court access for those with insufficient economic means to pay those fees.

(b) That fiscal responsibility should be tempered with concern for litigants' rights to access the justice system. The procedure for allowing the poor to use court services without paying ordinary fees must be one that applies rules fairly to similarly situated persons, is accessible to those with limited knowledge of court processes, and does not delay access to court services. The procedure for determining if a litigant may file a lawsuit without paying a fee must not interfere with court access for those without the financial means to do so.

(c) That those who are able to pay court fees should do so, and that courts should be allowed to recover previously waived fees if a litigant has obtained a judgment or substantial settlement.

68631. An initial fee waiver shall be granted by the court at any stage of the proceedings at both the appellate and trial court levels if an applicant meets the standards of eligibility and application requirements under Sections 68632 and 68633. An initial fee waiver excuses the applicant from paying fees for the first pleading or other paper, and other court fees and costs, including assessments for court investigations under Section 1513, 1826, or 1851 of the Probate Code, as specified in rules adopted by the Judicial Council, unless the court orders the applicant to make partial payments under subdivision (c) of Section 68632, subdivision (d) of Section 68636, or subdivision (e) of Section 68637. Under circumstances set forth in Section 68636, the court may reconsider the initial fee waiver and order the fee waiver withdrawn for future fees and costs or deny the fee waiver retroactively. At the end of the case, the court may recover fees and costs that were initially waived under circumstances set forth in Section 68637. Upon establishment of a conservatorship or guardianship, the court may collect all or part of any fees waived pursuant to this section and Section 68632 from the estate of the conservatee or ward, if the court finds that the estate has the ability to pay the fees, or a portion thereof, immediately, over a period of time, or under some other equitable agreement, without using moneys that normally would pay for the common necessities of life for the applicant and the applicant's family.

68631.5. For purposes of this article, a conservatee, ward, or person for whom a conservatorship or guardianship is sought, shall be deemed the "applicant," and the conservator, guardian, or person or persons seeking to establish the conservatorship or guardianship shall be deemed the "petitioner." In those cases, the petitioner is

responsible for completing all forms and providing all information required under this article.

68632. Permission to proceed without paying court fees and costs because of an applicant's financial condition shall be granted initially to all of the following persons:

(a) An applicant who is receiving public benefits under one or more of the following programs:

(1) Supplemental Security Income (SSI) and State Supplementary Payment (SSP) (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).

(2) California Work Opportunity and Responsibility to Kids Act (CalWORKs) (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) or a federal Tribal Temporary Assistance for Needy Families (Tribal TANF) grant program (Section 10553.25 of the Welfare and Institutions Code).

(3) Supplemental Nutrition Assistance Program (Chapter 51 (commencing with Section 2011) of Title 7 of the United States Code) or the California Food Assistance Program (Chapter 10.1 (commencing with Section 18930) of Part 6 of Division 9 of the Welfare and Institutions Code).

(4) County Relief, General Relief (GR), or General Assistance (GA) (Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code).

(5) Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI) (Chapter 10.3 (commencing with Section 18937) of Part 6 of Division 9 of the Welfare and Institutions Code).

(6) In-Home Supportive Services (IHSS) (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).

(7) Medi-Cal (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(b) An applicant whose monthly income is 125 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of paragraph (2) of Section 9902 of Title 42 of the United States Code.

(c) An applicant who, as individually determined by the court, cannot pay court fees without using moneys that normally would pay for the common necessities of life for the applicant and the applicant's family. Only if a trial court finds that an applicant under this subdivision can pay a portion of court fees, or can pay court fees over a period of time, or under some other equitable arrangement, without using moneys that normally would pay for the common necessities of life for the applicant and the applicant's family, the court may grant a partial initial fee waiver using the notice and hearing procedures set forth in paragraph (5) of subdivision (e) of Section 68634. "Common necessities of life," as used in this article, shall be interpreted consistently with the use of that term in paragraph (1) of subdivision (c) of Section 706.051 of the Code of Civil Procedure, as that paragraph read prior to January 1, 2012.

(d) A person who files a petition for appointment of a fiduciary in a guardianship or conservatorship, or files pleadings as the appointed fiduciary of a conservatee or ward, when the financial condition of the conservatee or ward meets the standards for a fee waiver pursuant to subdivision (a), (b), or (c).

68633. (a) An applicant for an initial fee waiver under subdivision (a) of Section 68632 shall complete, under penalty of perjury, a Judicial Council application form requiring the applicant to list his or her current street address, or another address where the court can contact the applicant, occupation, employer, and the type of public benefits that he or she is receiving. At the time the application is submitted, the applicant shall not be required to provide documents supporting receipt of public benefits, to provide evidence of identity, to submit to interviews regarding the applicant's financial circumstances, to be physically present to file the application, or to fill out additional parts of the application form.

(b) An applicant for an initial fee waiver under subdivision (b) of Section 68632 shall complete, under penalty of perjury, both of the following:

(1) A Judicial Council application form requiring the applicant to provide his or her current street address, or another address where the court can contact the applicant, occupation, and employer.

(2) A financial statement showing monthly or yearly income as determined under rules, and on forms, adopted by the Judicial Council. At the time the application is submitted, the applicant shall not be required to provide documents to prove income, dependents, or expenses, to provide evidence of identity, to submit to interviews regarding the applicant's financial circumstances, to be physically present to file the application, or to fill out additional parts of the application form.

(c) An applicant for an initial fee waiver under subdivision (c) of Section 68632 shall complete, under penalty of perjury, both of the following:

(1) A Judicial Council application form requiring the applicant to provide his or her current street address, or another address where the court can contact the applicant, occupation, and employer.

(2) A financial statement showing monthly or yearly income and expenses and a summary of assets and liabilities as determined under rules, and on forms, adopted by the Judicial Council. At the time the application is submitted, the applicant shall not be required to provide documents to prove income, dependents, or expenses, to provide evidence of identity, to submit to interviews regarding the applicant's financial circumstances, or to be physically present to file the application.

(d) The clerk shall provide forms adopted by the Judicial Council pursuant to this article without charge to any person who requests those forms or indicates that he or she is unable to pay any court fees or costs. An applicant shall not be required to complete any form as part of his or her application under this article other than those forms adopted by the Judicial Council.

(e) An applicant for an initial fee waiver shall be informed that, at a later date, the court may require proof of receipt of benefits or financial information to verify eligibility, as provided in Section 68636, and that a trial court may seek reimbursement of initially waived fees under circumstances set forth in Section 68637. This notice requirement is satisfied if the information is provided on the Judicial Council fee waiver application form.

(f) Financial information provided by an applicant shall be kept confidential by the court. No person shall have access to the application except the court, authorized court personnel, and any person authorized by the applicant. No person shall reveal any information contained in the application except as authorized by law. Any hearing regarding whether to grant or deny a fee waiver request

shall be held in camera, and the court shall exclude all persons except court staff, the applicant, those present with the applicant's consent, and any witness being examined. The fact that an applicant's fees and costs have been initially waived and the amount of the waived fees and costs are not confidential. The Judicial Council shall adopt procedures to keep the financial information confidential and to consider a request seeking that confidential information.

(g) Counsel representing an applicant who is filing in a general jurisdiction civil case pursuant to an agreement that counsel will advance litigation costs shall indicate that agreement on the application form. The court shall set a hearing to determine whether or not the applicant is able to pay court fees without using moneys that normally would pay for the common necessities of life. This subdivision does not apply if the applicant is represented by counsel for, or affiliated with, a qualified legal services project, as defined in Section 6213 of the Business and Professions Code.

68634. (a) This section applies to the processing and determination of fee waiver applications in the trial courts.

(b) All applications for an initial fee waiver shall be accepted for filing. If an applicant submits an application without providing all required information to complete the form, the clerk may request that the applicant supply the omitted information, but shall not refuse to file the application, or refuse to file any pleadings accompanying the application, on the ground that the fee has not been paid. The clerk shall not request that the applicant furnish information that is not required on the Judicial Council fee waiver application form. At the time the application is submitted, the clerk shall not request that the applicant provide documents to support the information other than those required under Section 68633.

(c) If a person has filed an application for an initial fee waiver, the person shall be permitted to file his or her pleading or other papers immediately, without paying any fees.

(d) The court may delegate to the clerk the authority to grant applications for an initial fee waiver that meet the standards of eligibility and application requirements set forth in Sections 68632 and 68633. The court shall not delegate to a clerk the authority to deny or to partially grant an application for an initial fee waiver.

(e) The fee waiver application shall be determined without regard to the substance of the applicant's pleading or other paper filed, if any. On review of an application for an initial fee waiver the court shall take the following actions, as applicable:

(1) Grant the application if the information provided on the application establishes that the applicant meets the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(2) Deny the application if the application is incomplete. If the application is denied on this basis, the applicant shall be given notice of the specific reason for denial and a reasonable opportunity to submit a revised application.

(3) Deny the application if the information provided on the application conclusively establishes that the applicant is not eligible for an initial fee waiver under Section 68632 on the grounds requested. If the application is denied on this basis, the applicant shall be given notice of the specific reason for denial and a reasonable opportunity to request a hearing. The applicant may submit additional information at the hearing.

(4) Set an eligibility hearing if the court has good reason to

doubt the veracity of the factual statements in the application. The applicant shall be given 10 days' notice of the hearing and the specific reason the court doubts the veracity of the factual statements. The court may require that specified, reasonably available, additional information be provided concerning the truthfulness of the factual statements in the application, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(5) Set an eligibility hearing if the information provided on the application does not establish that the applicant meets the criteria for eligibility and application requirements set forth in Sections 68632 and 68633, but that information does not conclusively establish that the applicant is not eligible for an initial fee waiver on the grounds requested. The applicant shall be given 10 days' notice of the hearing and the specific reason why the court has not granted the application. The court may require that specified, reasonably available, additional information be provided, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

After notice and an opportunity to be heard, the court may require an applicant under subdivision (c) of Section 68632 to pay a portion of court fees, or to pay court fees over a period of time or under some other equitable arrangement that meets the criteria of subdivision (c) of Section 68632. The court shall give a written statement of reasons if an application is denied in whole or in part.

(f) An application for an initial fee waiver is deemed granted five court days after it is filed, unless before that time, the court gives notice of action on the application as provided in subdivision (e). Any delay by the court in processing an application to initially waive court fees and costs does not count against any time limits affecting the pleadings or other papers that the applicant timely filed.

(g) If an application is denied in whole or in part, the applicant shall pay the court fees and costs that ordinarily would be charged, or make the partial payment as ordered by the court, within 10 days after the clerk gives notice of the denial, unless within that time the applicant submits a new application or requests a hearing under subdivision (e). If the applicant does not pay on time, the clerk shall void the papers that were filed without payment of the court fees and costs.

(h) A person who applies for an initial fee waiver shall indicate whether he or she has filed a prior application for an initial fee waiver in the same case within the previous six months and shall attach a copy, if one is reasonably available.

68634.5. (a) This section applies to the processing and determination of fee waiver applications in the appellate courts.

(b) All completed applications for a fee waiver shall be accepted for filing. If an application is submitted without all required information filled out on the form, the clerk may return the application to the applicant and request that the applicant supply the omitted information, but shall not refuse to file any paper accompanying the application on the ground that the application is incomplete or the fee has not been paid. The clerk shall not request that the applicant furnish information that is not required on the Judicial Council fee waiver application form. At the time the

application is submitted, the clerk shall not request that the applicant provide documents to support the information other than those required under Section 68633.

(c) A person shall be permitted to file his or her papers immediately, even if the person does not present the filing fee, or an application for, or order granting, a fee waiver.

(d) The court may delegate to the clerk the authority to grant applications for a fee waiver that meet the standards of eligibility and application requirements set forth in Sections 68632 and 68633. The court shall not delegate to a clerk the authority to deny an application for a fee waiver.

(e) The fee waiver application shall be determined without regard to the substance of any other paper filed by the applicant. On review of an application for a fee waiver, the court shall take the following actions, as applicable:

(1) Grant the application if the information provided on the application establishes that the applicant meets the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(2) Deny the application if the application is incomplete. If the application is denied on this basis, the applicant shall be given notice of the specific reason for denial and a reasonable opportunity to submit a revised application.

(3) Deny the application if the information provided on the application conclusively establishes that the applicant is not eligible for a fee waiver under Section 68632 on the grounds requested. If the application is denied on this basis, the applicant shall be given notice of the specific reason for denial and a reasonable opportunity to submit additional information related to the criteria for eligibility and application requirements.

(4) If the court concludes that there is a substantial evidentiary question regarding the applicant's eligibility, the court:

(A) May require the applicant to provide specified, reasonably available, additional information concerning the factual statements in the application, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(B) May set a hearing to consider evidence concerning the applicant's eligibility.

(C) Shall give a written statement of reasons if an application is denied.

(f) An application for a fee waiver is deemed granted five court days after it is filed, unless before that time, the court gives notice of action on the application as provided in subdivision (e).

(g) If an application is denied, the applicant shall pay the court fees and costs that ordinarily would be charged within 10 days after the clerk gives notice of the denial, unless within that time, the court grants a fee waiver based on a new application or additional information provided by the applicant under subdivision (e). The clerk shall notify the applicant of the consequences for failure to pay the court fees.

(h) A person who applies for an initial fee waiver shall indicate whether he or she has filed a prior application for a fee waiver in the same case and shall attach a copy, if one is reasonably available.

68635. (a) This section applies only to waivers of trial court fees.

(b) Notwithstanding any other provision of this article, a person who is sentenced to the state prison or confined in a county jail shall pay the full amount of the trial court filing fees and costs to the extent provided in this section.

(c) To apply for an initial fee waiver, a person who is sentenced to the state prison or confined in a county jail shall complete, under penalty of perjury, a Judicial Council application form giving the current address of the inmate and a statement that he or she is incarcerated, together with a statement of account for any moneys due to the inmate for the six-month period immediately preceding the application. The form shall be certified by the appropriate official of the Department of Corrections and Rehabilitation or a county jail.

(d) When the pleadings or other papers are filed, the court shall assess and, if funds exist, collect as partial payment, a partial filing fee of 20 percent of the greater of either of the following:

(1) The average monthly deposits to the inmate's account.

(2) The average monthly balance in the inmate's account for the six-month period immediately preceding the application.

(e) After the initial filing fee is partially paid, the inmate shall make monthly payments of 20 percent of the preceding month's income credited to the inmate's account. The Department of Corrections and Rehabilitation, or a county jail, shall forward payments from this account to the clerk of the court each time the amount in the account exceeds ten dollars (\$10) until the filing fees are paid in full.

(f) The fees collected by the court under this section shall not exceed the amount of the fees that would be charged to a person who is not incarcerated.

(g) The court may delegate to a clerk the authority to process requests for fee waivers from inmates under this section.

(h) An inmate shall not be prohibited from filing pleadings or other papers solely because the inmate has no assets and no means to partially pay the initial filing fee.

68636. (a) After the court has granted an initial fee waiver in whole or in part, and before final disposition of the case, the person who received the initial fee waiver shall notify the court within five days of any change in financial circumstances that affects his or her ability to pay all or a portion of the court fees and costs that were initially waived.

(b) If, before or at the time of final disposition of the case, the court obtains information, including information derived from the court file, suggesting that a person whose fees and costs were initially waived is not entitled to a fee waiver, or that the person's financial condition has changed so that he or she is no longer eligible for a fee waiver, the court may require the person to appear at a court hearing by giving the applicant no less than 10 days' written notice of the hearing and the specific reasons why the initial fee waiver might be reconsidered. The court may require the person to provide reasonably available evidence, including financial information, to support his or her eligibility for the fee waiver, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633. The court shall not conduct a hearing pursuant to this subdivision more often than once every six months.

(c) At the time of final disposition of the case, the court may give notice that a person whose fees and costs were initially waived

is required to appear at a court hearing by giving the applicant no less than 10 days' written notice of the hearing. The court may require the person to provide reasonably available evidence, including financial information, to support his or her eligibility for the fee waiver, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(d) In conducting a hearing under subdivision (b) or (c), if the court determines that the person was not entitled to the initial fee waiver at the time it was granted, the court may order the waiver withdrawn retroactively. The court may order the person to pay to the court immediately, or over a period of time, all or part of the fees that were initially waived. The court shall give the person a minimum of 10 court days to begin paying the full or partial fees.

(e) In conducting a hearing under subdivision (a), (b), or (c), if the court determines that the person's financial circumstances have changed since the grant of the initial fee waiver or partial initial fee waiver, the court may order the fee waiver withdrawn prospectively from the time that the person no longer was eligible for a fee waiver. The court may order the person to pay to the court immediately, or over a period of time, all or part of the fees that were waived since the time that the person no longer was eligible for a fee waiver. The court may order the person to begin paying all or part of the court fees assessed for future activities in the case. The court shall give the person a minimum of 10 court days to begin paying the full or partial fees.

(f) If the court obtains information suggesting that a litigant whose fees and costs were initially waived is obtaining court services in bad faith, or for an improper purpose such as to harass or cause unnecessary delay, or to needlessly increase the costs of litigation, the court may give notice that the litigant is required to appear at a court hearing to consider whether limitations should be placed on court services for which fees were initially waived.

68637. (a) This section applies only to waivers of trial court fees.

(b) (1) If a party whose trial court fees and costs were initially waived is a prevailing party within the meaning of Section 1032 of the Code of Civil Procedure, the judgment or dismissal entered in favor of the party whose fees and costs were initially waived shall include an order requiring that the party against whom judgment or dismissal has been entered pay to the court the waived fees and costs. The court may refuse to enter a partial or full satisfaction of a judgment until an accompanying order requiring payment of waived fees and costs has been satisfied.

(2) A party petitioning the court to enter satisfaction of judgment shall declare, under penalty of perjury, that any order requiring payment of waived fees and costs has been satisfied.

(3) This subdivision does not apply to any of the following:

(A) Unlawful detainer cases.

(B) Family law matters, for which recovery of fees is subject to subdivisions (d) and (e).

(C) Cases in which the judgment or dismissal is entered against a party whose fees and costs were initially waived.

(c) If a party in a civil case whose trial court fees and costs were initially waived recovers ten thousand dollars (\$10,000) or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other recovery, the waived fees and costs

shall be paid to the court out of the settlement, compromise, award, or other recovery.

(1) The court shall have a lien on any settlement, compromise, award, or other recovery in the amount of all the court fees and costs initially waived.

(2) The waived fees and costs shall first be paid to the court before the party whose fees and costs were initially waived receives anything of value under the settlement, compromise, award, or other recovery.

(3) Notice of the lien shall be given to the parties under rules and on forms adopted by the Judicial Council, and the Judicial Council shall provide by rule the procedures by which a party subject to a lien may determine the amount of the lien.

(4) The court may refuse to enter a petition for dismissal in the case until the lien is satisfied. A party filing a petition for dismissal shall declare, under penalty of perjury, that the lien has been paid, or that any settlement, compromise, award, or other recovery has a value of less than ten thousand dollars (\$10,000).

(5) In a case in which an initial waiver of fees and costs was granted, or if a petition to dismiss the case is filed without the declaration, the court may issue an order to show cause why the lien should not be enforced and why the court should not enter a judgment making the parties jointly and severally liable to the court for initially waived fees and costs.

(d) If a judgment or an order to pay support is entered in a family law case, the trial court shall consider, based on the information in the court file, whether a party who did not receive a fee waiver has the ability to pay all or part of the other party's waived fees. Any order for the payment of the other party's waived fees shall be made payable only after all current support and all accrued arrears owed by the party who did not receive the fee waiver have been paid. If the court orders payment of the other party's waived fees, and the party required to pay is not present in court at the time judgment is entered, the party required to pay shall be given notice and an opportunity for a hearing to request that the court set aside the order to pay fees. A request for a hearing shall be made in writing within 30 days after service of the notice of the court order. If a request for hearing is made, the order for payment of initially waived fees shall not be enforced until after the hearing.

(e) If a judgment is entered in a family law case, the trial court shall consider, based on the information in the court file, whether a party's circumstances have changed so that it is reasonable to require a party who received an initial fee waiver to pay all or part of the fees that were initially waived. In making this determination, the court shall use the criteria for eligibility set forth in Section 68632. In considering whether a child or spousal support order constitutes a change of circumstances allowing the party to pay fees, the court also shall consider the likelihood that the support obligor will remit the payments ordered by the court. If a support order is the primary basis for the court's finding of changed circumstances, the court shall order the support obligor to pay the previously waived fees subject to the provisions of subdivision (d). When the court orders the party to pay all or part of the fees that were initially waived, the party required to pay shall be given notice and an opportunity for a hearing to request that the court set aside the order to pay fees. A request for a hearing shall be made in writing within 30 days after service of the notice of the court order. If a request for hearing is made, the order for payment of initially waived fees shall not be enforced

until after the hearing.

68638. (a) The trial court may execute on any order for payment of initially waived fees and costs in the same manner as on a judgment in a civil action. The court may issue an abstract of judgment, a writ of execution, or both, for all of the following:

- (1) Recovery of the initially waived fees and costs as ordered.
- (2) Fees for issuing the abstract of judgment, writ of execution, or both.
- (3) A twenty-five-dollar (\$25) fee for administering this subdivision.
- (4) An amount due to levying officers for serving and collecting on the judgment that will all be added to the writ of execution.

(b) Upon collection, the initially waived fees and costs, the fees for issuing the abstract of judgment and writ of execution, and the twenty-five-dollar (\$25) administrative fee shall be remitted to the court. Thereafter, the amount due to the levying officers for serving and collecting on the judgment shall be paid.

68639. An initial fee waiver shall expire 60 days after the judgment, dismissal, or other final disposition of the case.

68640. The Judicial Council may adopt a rule of court to allow litigants who are not eligible for a fee waiver to pay court fees in installments.

68641. The Judicial Council shall adopt rules and forms to establish uniform procedures to implement this article, including, but not limited to, procedures for all of the following:

- (a) Considering and determining applications to proceed without paying court fees and costs at every stage of the proceedings, including at the trial and appellate levels of the court.
 - (b) Prescribing the court fees and costs that may be waived at every stage of the proceedings.
 - (c) Giving notice of lien and hearings for reconsideration and recovery of initially waived fees and costs.
 - (d) Collecting waived fees and costs.
 - (e) Requesting a hearing when an application is denied.
 - (f) Any other procedures necessary to implement the provisions of this article.
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Tribal/State Cross-Court Administrative Collaborative Learning Request

The following information is a checklist of items you may request to learn more about the tribal court(s) located within the area of this county. Please place a check next to the items you would like to learn about and return via fax, mail, in-person or email to the tribal court prior to your meeting.

Visiting a Tribal Court

	Tribe
	Tribal history
	Events
	Tour of tribal lands
	Law practice requirements (Bar licensing)
	Meet the tribal council
	Meet tribal court judges and staff members
	Meet with tribal CASA program staff
	Meet staff of other tribal departments
	Membership <ul style="list-style-type: none"> • Requirements • Types • Demographics <ul style="list-style-type: none"> ○ Ages ○ Gender ○ Youth ○ Elders ○ Living on/off the reservation or rancheria
	Information on traditions relating to meeting tribal members
	Tribal Courthouse
	Location
	Days and hours
	Library
	Tour of tribal court
	ADA accommodations description
	Security
	Emergency response planning (to address the court's response in the first 72 hours following an emergency)
	Continuity of Operations Planning (COOP) (designed to facilitate a court continuing all essential functions within 12 hours of an emergency and sustaining those functions for up to 30 days)
	Documentation requirements for visitors to the tribal courthouse and reservation or rancheria

Courthouse Facilities	
	Days and hours
	Library
	Tour of courthouse
	ADA accommodations description
	Courthouse events
Security	
	Emergency response planning (to address the court's response in the first 72 hours following an emergency)
	Continuity of Operations Planning (COOP) (designed to facilitate a court continuing all essential functions within 12 hours of an emergency and sustaining those functions for up to 30 days)
	Current security measures
Local State Court Administration	
	Staff organizational structure
	Staff roles and responsibilities
	Training
	Performance evaluation/reviews
	Quality assurance (eg. file reviews)
Local State Court Operations	
	Mission statement, vision, goals
	Courts/Divisions
	Local court rules or forms
	Court operational manual
	Court staff structure
	Electronic filing or payment of fees
	Preparation of record for appeal
	Funding for court operations and projects (see statewide factsheet)
Cases	
	Collaborative courts (drug/DUI court, veterans court, mental health court etc)
	Case opening and organizing <ul style="list-style-type: none"> • Electronic filing

Tribal/State Cross-Court Administrative Collaborative Learning Request

The following information is a checklist of items you may request to learn more about the tribal court(s) located within the area of this county. Please place a check next to the items you would like to learn about and return via fax, mail, in-person or email to the tribal court prior to your meeting.

Visiting a Tribal Court

	Tribe
	Tribal history
	Events
	Tour of tribal lands
	Law practice requirements (Bar licensing)
	Meet the tribal council
	Meet tribal court judges and staff members
	Meet with tribal CASA program staff
	Meet staff of other tribal departments
	Membership <ul style="list-style-type: none"> • Requirements • Types • Demographics <ul style="list-style-type: none"> ○ Ages ○ Gender ○ Youth ○ Elders ○ Living on/off the reservation or rancheria
	Information on traditions relating to meeting tribal members
	Tribal Courthouse
	Location
	Days and hours
	Library
	Tour of tribal court
	ADA accommodations description
	Security
	Emergency response planning (to address the court's response in the first 72 hours following an emergency)
	Continuity of Operations Planning (COOP) (designed to facilitate a court continuing all essential functions within 12 hours of an emergency and sustaining those functions for up to 30 days)
	Documentation requirements for visitors to the tribal courthouse and reservation or rancheria
	Current security measures
	Tribal Court Administration
	Staff organizational structure
	Staff roles and responsibilities
	Training
	Performance evaluation/reviews
	Quality assurance (for example, file reviews)
	Tribal Court Operations
	History of the tribal court

	Elected or appointed judges
	Mission statement, vision, goals
	Courts/divisions/judicial assignments
	Tribal laws
	Tribal rules and forms
	Court procedures/manual
	Tribal court staff structure
	Electronic filing or payment of fees
	Appellate review
	Funding for court operations and projects
	Cases
	Case types currently heard
	Case types (under consideration by Tribe for near future)
	Collaborative courts (drug/DUI court, veterans court, mental health court etc.)
	Case opening and organizing <ul style="list-style-type: none"> • Electronic filing • Court stamps used • Case number assignments • Internal case file organization • Confidential case file/documents
	Case calendaring <ul style="list-style-type: none"> • Process • When cases are heard • Display of case names • Location of posting • Timeline of posting • Archiving
	Case filing system <ul style="list-style-type: none"> • Calendar day • Pending • Closed case files • Storage
	Courtroom technology <ul style="list-style-type: none"> • How hearings are recorded • Tracking cases <ul style="list-style-type: none"> ○ Mechanism for tracking cases ○ Data collection ○ Database/case management system ○ Reporting purposes (for example, reported to the tribal council, tribal departments, justice partners, or funders)
	Orders

	<ul style="list-style-type: none"> • Signature types • How parties receive orders • How orders are recorded
	Access <ul style="list-style-type: none"> • Public’s access to court decisions • Public’s and parties’ access to case files
	Court-connected services <ul style="list-style-type: none"> • What are the services? • Who may access these services? • Where are the services (on and off the reservation or rancheria)? • Are any services part of a collaboration?
Family Violence	
	Tribal laws <ul style="list-style-type: none"> • Children & youth involved <ul style="list-style-type: none"> ○ Domestic violence ○ Sexual assault ○ Stalking ○ Trafficking ○ Dating violence ○ Elder abuse • Adults <ul style="list-style-type: none"> ○ Domestic violence ○ Sexual assault ○ Stalking ○ Trafficking ○ Dating violence ○ Elder abuse • Elders <ul style="list-style-type: none"> ○ Domestic violence ○ Sexual assault ○ Stalking ○ Trafficking ○ Dating violence
	Recognition & enforcement of tribal protection orders <ul style="list-style-type: none"> • Tribal law enforcement procedures • Type of law enforcement capability (No services, tribal/casino security, tribal enforcement (tribal codes only), deputized by county, deputized by the Bureau of Indian Affairs- Office of Justice Services) • Protocol with the local state court under rule 5.386 of the California Rules of Court to permit fax or electronic filing of protection orders for registering under Family Code section 6404
	Access to registry system for storing data and images of protection orders



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

Materials of Interest for Visiting a Tribal Court

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CALIFORNIA TRIBAL COURT-STATE COURT FORUM

June 2012

Native American Research Series: Tribal Justice Systems

Introduction

The Tribal/State Programs of the Judicial Council's Center for Families, Children & the Courts has developed a series of informational abstracts that bring together the available data from various sources on American Indians and Alaskan Natives (AI/AN) nationally, statewide, and tribally specific to California's AI/AN population. The purpose of these abstracts is to develop and disseminate justice-related information and links to reports to ensure the highest quality of justice and service for California's AI/AN population. This information is intended for the state judicial branch, tribal justice systems, tribal organizations, state agencies, and local agencies to support effective collaboration and tribal justice development.

Preface

This report will provide a general overview of tribal justice systems in tribes. The majority of California tribes still rely on local courts and law enforcement. However, the past 10 years has seen remarkable growth in both the number of tribal justice agencies, and the services offered.

We would like to extend special thanks to Bill Denke, Chief of the Sycuan Police Department and Chair of the California Tribal Police Chief's Association, for providing current information on tribal law enforcement agencies in California.

Jurisdictional Issues

As sovereigns, tribes have legal jurisdiction over both their citizens and their lands. According to most recent census data, California is home to more people of Native American/Alaska Native heritage than any other state in the country. There are currently 109 federally recognized Indian tribes in California and 78 entities petitioning for recognition. Tribes in California currently have nearly 100 separate reservations or rancherias. There are also a number of individual Indian trust allotments. These lands constitute "Indian Country," and a different jurisdictional scheme applies in Indian Country. For Indians and Indian Country there are special rules that govern state and local jurisdiction. There may also be federal and tribal laws that apply.

Please see <http://www.courts.ca.gov/8710.htm> and <http://www.tribal-institute.org/lists/pl280.htm> for more information on jurisdiction in Indian Country.

Tribal Justice Agencies

Law Enforcement

Law enforcement on tribal lands has historically been, and remains, a challenging task for tribal communities. According to the National Congress of American Indians (NCAI):¹

- Police in Indian Country function within a complicated jurisdictional net, answer to multiple authorities, operate with limited resources, and patrol some of the most desolate of territory, often without assistance from partner law enforcement agencies.
- There are only 2,380 Bureau of Indian Affairs and tribal uniformed officers available to serve an estimated 1.4 million Indians covering over 56 million acres of tribal lands in the lower 48 states.
- On tribal lands, 1.3 officers must serve every 1,000 citizens, compared to 2.9 officers per 1,000 citizens in non-Indian communities with populations under 10,000.
- A total of at least 4,290 sworn officers are needed in Indian Country to provide the minimum level of coverage enjoyed by most communities in the United States.
- These departments rarely have more than one officer on duty at any time, and their officers often work without adequate backup.

Law enforcement jurisdiction varies by the location of the offense (on or off reservation land), the status of the parties (the race/ethnicity of the victim and offender), and the nature of the crime (major crime or misdemeanor). In California, a P.L. 280 State, officers who have jurisdiction on reservations include the following:

Tribal Security Officers

These officers are employed by tribes and have security duties on the reservation. They often are given jurisdiction by the tribal government to enforce tribal law and order codes violated by tribal members, and may be granted arrest powers over tribal members and Indians on the reservation only. They have arrest powers only in the capacity of a private citizen.

Tribal Police Officers

These officers are also employed by individual tribal governments and have tribal authorized police and arrest powers over tribal members committing violations of tribal law and order codes committed on reservation property. Currently, most tribal governments require at a minimum, graduation from a formal law enforcement academy.

Federally Deputized Police Officers

These include Bureau of Indian Affairs (BIA) Special Deputy Officers and Tribal Officers Holding Special Law Enforcement Commissions (SLECs). SLEC officers are a hybrid tribal/federal officer, paid by the individual tribal government, but deputized by the BIA as federal law enforcement officers with the same authority as BIA police officers. These officers are federally empowered to enforce

¹ http://tloa.ncai.org/documentlibrary/2011/08/Talking_Circles_Report_Final_Jul11.pdf (as of 6/14/12)

federal laws on and off reservation if a nexus to the reservation exists. These officers may enforce federal laws, and arrest non-Indians for violations of federal laws. In addition, these federal officers may enforce observed violations of federal laws while off the reservation, and conduct investigations off the reservation.

A comparison of data collected for the 2002 Census of Tribal Justice Agencies² and more current information obtained from California Tribal Police Chief's Association shows a pattern of growth in tribal law enforcement across the state.

- In 2002, 20 Tribes (23 percent of California tribes, compared to 53% percent nationally) reported having a Tribal law enforcement agency. In 2012, this has grown to 39 tribes (about 37 percent of California tribes). The remaining tribes rely on some combination of state/local law enforcement.³
- In 2002, 10 agencies employed sworn officers; of these, 5 had a cross-deputization agreement with either the BIA (4) or “neighboring non-tribal authorities” (1). By 2012, this had grown to 17 agencies with sworn officers⁴.
- The number of agencies which operate through a PL 93-638 or self-governance contract (6) has been stable from 2002 to 2012.
- Six tribal agencies had arrest authority over non-Indians in 2002. This has risen to 17 agencies in 2012.

We do not have data that allow us to compare current California figures with tribes outside of California, but data from the 2002 census shows that California tribes rely more heavily on local law enforcement than non-California tribes (see Table 1). This is in part due to California’s status as a “PL-280” state, which cedes Federal law enforcement authority in Indian Country to some states⁵.

² Steven W. Perry, Bureau of Justice Statistics, Census of Tribal Justice Agencies in Indian Country, 2002 (NCJ 205332,) Dec. 2005. <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=543> (as of 9/19/2011). Unless otherwise noted, the data presented in this section are drawn from independent analysis of this survey.

³ Id.

⁴ Four additional tribes are in the process of establishing law enforcement agencies.

⁵ The implications of PL-280 are extremely complex. Please refer to the Tribal Court Clearinghouse web pages (<http://www.tribal-institute.org/lists/pl280.htm>, as of 3/27/12) for further discussion and references.

Table 1
Tribal Law Enforcement Functions – 2002⁶

Which of the following provide law enforcement functions for your tribe?

	California	Non-California
Sworn officers	11%	69%
BIA	7%	39%
State	19%	32%
Local	90%	37%
Tribal Law Enforcement	21%	68%
Traditional Law Enforcement	3%	7%
Game/Fish Wardens	7%	21%

Categories not listed are Village Police/Public Safety, Housing Authority, Casino Security, and "Other". Respondents could select more than one category.

- Among all reporting California tribes, 92 percent refer juvenile cases to county authorities, compared to 55 percent of non-California tribes. Eleven percent of California tribes referred juvenile cases to tribal authorities, compared to 56 percent of non-California tribes (see Table 2).

Table 2
Juvenile Justice – 2002

For Juvenile offenses committed on your tribal land, to which justice authorities may cases be referred?

	California	Non-California
Tribal justice authorities	11%	56%
County justice authorities	92%	55%
State justice authorities	10%	21%
Federal justice authorities	3%	24%

Respondents could select more than one category.

- Five tribal agencies in California operated a detention facility of some sort. Most (85 percent) relay largely on county facilities for all or some of their detention functions.
- Eighty-five percent of California tribal agencies, including all agencies employing sworn officers, recorded the number and types of crime incidents manually and/or electronically. Three tribes shared statistics with local or state agencies, and six shared statistics with federal agencies (FBI, BIA, or both).

Access to Criminal History/Justice Statistics

- Seventy-five percent of California tribes recorded crime incidents on the reservation manually and/or electronically.

⁶ Steven W. Perry, Bureau of Justice Statistics, Census of Tribal Justice Agencies in Indian Country, 2002 (NCJ 205332,) Dec. 2005. <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=543> (as of 9/19/2011)

- Over half of the tribes had access to the National Criminal Information Center (NCIC).
- An estimated 54 tribes submitted information on tribal sex offenders to the National Sex Offender Registry (NSOR).
- Less than 12 percent of the tribes reported their justice agencies were electronically networked with other justice agencies on or off the reservation.
- Fourteen tribes routinely shared crime statistics with neighboring local governments, the State, or the FBI.
- Tribal law enforcement officers do not have access to the California Law Enforcement Telecommunication System (CLETS) unless they gain access through the National Law Enforcement Telecommunication System (NLETS).
- Tribal law enforcement officers have access to NLETS if they are Special Law Enforcement Commissions (SLEC) officers.⁷ At this time, 7 California agencies have SLEC officers⁸.
- California tribes have access to the California Courts Protective Order Registry (CCPOR).

Tribal Courts⁹

What is a Tribal Court?

Tribal courts are formalized systems established by American Indian and Alaska Native tribes for resolving civil, criminal and other legal matters. There is a great deal of variation in the types of tribal courts and how they apply tribal laws. Some tribal courts resemble Western-style courts in that written laws and court procedures are applied. Others use traditional Native means of resolving disputes, such as peacemaking, elders' councils, and sentencing circles. Some tribes have both types of courts.

There are also a small number of Courts of Indian Offenses. These are courts (also known as “CFR courts”) established by the Bureau of Indian Affairs for the benefit of tribes who do not operate their own tribal court.

⁷ Authority for the issuance of Special Law Enforcement Commissions is based upon Title 25, United States Code, Section 2804 (Pub. L. 101-379), 25 C.F.R. Part 12), and the Tribal Law and Order Act (Pub. L. 111-211). Under the Tribal Law and Order Act (TLOA) tribal agencies do have access to the National Law Enforcement Telecommunications System (NLETS).

⁸ An additional 4 tribal law enforcement departments are in the process of obtaining SLECs.

⁹ Steven W. Perry, Bureau of Justice Statistics, *Census of Tribal Justice Agencies in Indian Country, 2002* (NCJ 205332, Dec. 2005).

Table 3
Tribal Justice Systems - 2002

	California N=89	Non-California N=225
Any Tribal Court System	9 (10%)	180 (80%)
<i>Tribal courts</i>	9	167
<i>Appellate courts</i>	4	99
<i>Circuit rider system</i>	0	2
<i>Traditional Methods/Forums</i>	2	37
<i>Inter-tribal court system</i>	1	14
<i>Other</i>	1	16

- In 2002, 9 tribes¹⁰ of 89 participating California tribes (10 percent) reported having a tribal court, compared to 180 of 225 reporting (59 percent) of non-California tribes. About 84% of California’s reporting tribes relied solely on state courts for services.
- In 2012, 39 tribes of 109 federally recognized California tribes (36 percent) either have a tribal court or access to a tribal court through an inter-tribal court coalition.
 - The Intertribal Court of Northern California (ICNC) serves 7 tribes.
 - The Intertribal Court of Southern California (ICSC) serves 12 tribes.
 - The Northern California Intertribal Court System (NCICS) serves 4 tribes.
- Most of these courts heard civil cases (7) and juvenile/family law cases (6). About half (4) heard domestic violence protective orders.
- Four of the tribal courts offered some kind of intermediate sanctions for adult offenders (e.g., drug/alcohol treatment, fines/restitution, counseling).
- Six tribes offered similar intermediate sanctions for juvenile offenders.
- None of the tribes maintained a probation function in 2002.
- The responding tribal courts report staffing levels of one to nine full time staff.

¹⁰ The Colorado River Indian Tribe did not participate, but it has been independently confirmed that they operated a tribal court at that time so they are included.

The number of tribal courts in California has more than doubled since the 2002 survey—from 9 to 22¹¹. The number of tribes with access to a tribal court increases to 39 when the Intertribal Court of Northern California (ICNC), representing 7 tribes, the Intertribal Court of Southern California (ICSC), representing 12 tribes, and the Northern California Intertribal Court System (NCICS), are included. Additional tribes make use of these consortia on a more limited or contract basis (see Figure 1).

Tribal courts in California currently hear more than 30 types of cases (see Table 5).

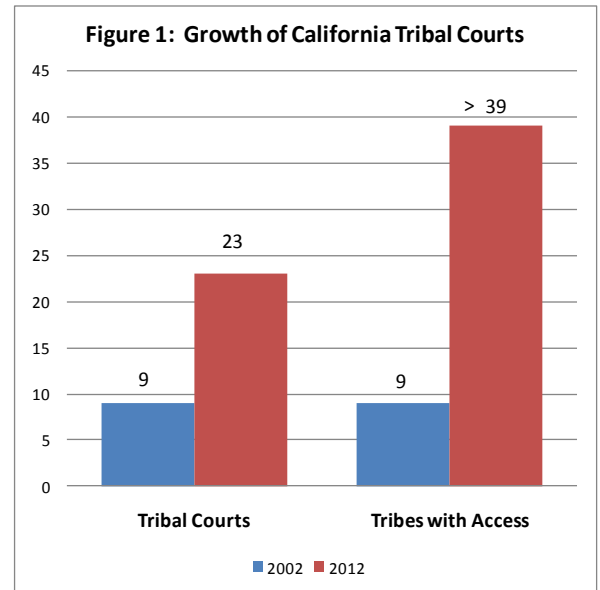


Table 5: Case types heard by California tribal courts¹²

<p><u>Civil/Probate</u> Civil complaints for monetary damages/Small claims Civil disputes Conservator issues Contract disputes Dog/Animal control Evictions/land disputes/possession of tribal lands Game fish and wildlife management Housing matters (unlawful detainer) Name & birth certificate changes Probate</p>	<p><u>Administrative</u> Building codes Elections Employment Enrollment Administrative procedures matters Appeals from tribal ordinances</p> <p><u>Criminal</u> Criminal offenses Environmental offenses Peace/security code violations Nuisance Torts Traffic Trespass</p>	<p><u>Family Law</u> Dissolution of marriage Domestic relations Domestic violence restraining orders Protection/Restraining orders</p> <p><u>Juvenile</u> Juvenile delinquency Juvenile wellness court Truancy Child abuse and neglect guardianships</p>
--	--	--

¹¹ To locate a Tribal Court in California, use the AOC Tribal Court Directory (<http://www.courts.ca.gov/14400.htm>). For a map of these courts, go to <http://g.co/maps/cvdq8>

¹² The rules and procedures of each court will vary, and an individual court may not hear all of these types of cases.

The Tribal Law and Order Act of 2010 (TLOA)¹³

In recent years, the most significant development in tribal justice has been the creation of the Tribal Law and Order Act of 2010. A comprehensive description of this act and the programs and policies issuing from it is well beyond the scope of this discussion, but it would be incomplete without at least mentioning some of the major provisions contained in the TLOA.

- The TLOA requires greater accountability and coordination between federal and tribal justice authorities, for example, the filing of annual disposition reports by federal prosecutors. It also establishes the Office of Tribal Justice within the Department of Justice, providing a point of contact with tribal agencies to advise and provide technical assistance.
- It allows tribal authorities to impose increased penalties under certain circumstances (up to 3 years imprisonment and fines of \$15,000 per offense).
- Tribes in PL 280 states are now allowed to petition the Attorney General to re-assert federal jurisdiction in tribal areas. This is additional to state authority, not a replacement of it. A separate, but related provision makes it possible for tribal law enforcement and prosecutors to obtain commissions granting limited federal authority.
- The TLOA authorizes funding and grant opportunities across most areas of tribal justice, including support and training for data collection, data sharing, and reporting.

Because it is fairly recent legislation (signed into law on July 29, 2010) the immediate impact of the TLOA is only now being felt, and any long-term benefits will take some time to be realized.

¹³ The full text of the TLOA is available at:

<http://www.justice.gov/usao/az/IndianCountry/Tribal%20Law%20%20Order%20Act%202010.pdf>

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CFCC generates and distributes research-based information that has promise for informing the work of the courts in California and nationwide. To learn more about its work and to see more *Research Updates*, visit www.courts.ca.gov

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The views in this research update are those of the author and do not necessarily represent the official positions or policies of the Judicial Council of California.

The staff names listed above have been updated as of October 2013; otherwise the content of this research update remains unchanged.

CALIFORNIA COURTS
THE JUDICIAL BRANCH OF CALIFORNIA

[close this page](#)

California Tribal Courts Directory

Information on individual tribes is taken from Tiller's Guide to Indian Country (Tiller, Veronica E. Velarde: BowArrow Publishing Company, Albuquerque, New Mexico, 2005).

[TRIBAL COURTS LIST](#) [TRIBAL COURTS BY COUNTY](#)

[California Tribal Court Descriptions](#) includes information about the following tribal courts:

[Bishop Paiute Indian Tribal Court](#)
[Blue Lake Rancheria Tribal Court](#)
[Chemehuevi Indian Tribal Court](#)
[Colorado River Indian Tribes \(CRIT\) Tribal Court](#)
[Fort Mojave Tribal Court](#)
[Hoopa Valley Tribal Court](#)
[Hoplend Band of Pomo Indians Tribal Court](#)
[Intertribal Court of Northern California](#)
[Intertribal Court of Southern California](#)
[Karuk Tribal Court](#)
[Morongo Tribal Court](#)
[Northern California Tribal Courts Coalition](#)
[Quechan Tribal Court](#)
[Redding Rancheria Tribal Court](#)
[San Manuel Tribal Court](#)
[Shingle Springs Rancheria Tribal Court](#)
[Smith River Rancheria Tribal Court](#)
[Washoe Tribal Court](#)
[Yurok Tribal Court](#)

More Information

Most tribes in California are served by the BIA Pacific Regional Office.

To find a list of tribes by county look [here](#) for central California; [here](#) for northern California; and [here](#) for southern California.

In addition, the following tribes which are served by regional offices other than the BIA Pacific Regional Office also have lands in California:

Chemehuevi Indian Tribe of the Chemehuevi Reservation, California (San Bernardino County).

Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California (Riverside County).

Fort Mojave Indian Tribe of Arizona, California & Nevada (San Bernardino County).

Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona (Imperial County).

Washoe Tribe of Nevada and California (Alpine County).

You can find contact information for the tribes by searching the tribal name in the [Tribal Leader's directory](#) published by the Bureau of Indian Affairs.

Judicial Guidance on Learning About Pending Tribal Court Cases or Orders

How do I learn whether the parties before me have a pending case in tribal court or a relevant tribal court order?

The subject matter jurisdiction of each tribal court is defined by the tribe that establishes it. The extent to which tribes may exercise personal jurisdiction over individual litigants is defined in a body of federal law. As a general rule tribes may exercise full civil and criminal jurisdiction over Indians within the tribe's reservation or trust lands ("Indian Country" (link to 18 U.S.C. 1151)). Generally, tribes have no criminal jurisdiction over non-Indians except for "special domestic violence criminal jurisdiction." (link to DV and Tribal Communities benchguide pp. 7-8) Tribes may exercise civil jurisdiction over non-Indians generally only where the non-Indians have entered into consensual relationships with the tribe or its members through commercial dealing, contracts, leases, or other arrangements. A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or welfare of the tribe.

Currently tribal courts in California are hearing a variety of case types including child abuse and neglect cases; child support; conservatorships; domestic violence and protective orders; domestic relations (i.e. divorce and dissolution, etc.); guardianships; contract disputes and other civil cases for money judgments; unlawful detainers, property disputes, nuisance abatement, and possession of tribal lands; name changes; and civil harassment protective orders. For a directory of tribal courts in California, see <http://www.courts.ca.gov/14400.htm>, and for a map of where they are located, see <http://www.courts.ca.gov/programs-tribal.htm>.

In order to avoid conflicting tribal and state court orders, judges in California are reaching out to tribal court judges to develop cooperative relationships so that they can share information about pending cases. To learn more about these cooperative relationships, see link to forum page <http://www.courts.ca.gov/3065.htm> and resources for tribal/state collaborations <http://www.courts.ca.gov/17422.htm>.

In tribal court, tribal judges may simply ask the parties whether they have cases pending on the same matter in state court. In state court, state court judges may simply ask the parties whether they have cases pending on the same matter in tribal court. In family cases, the court may direct family court services to inquire of the tribal court whether there is a pending tribal court case or order. In child welfare cases, some courts have a standing order to allow for the sharing of this information between tribal and county social services. In other types of cases, the courts may ask their court clerks to inquire of the other court.

Guide

- Judicial decision makers can act only on the information they are provided by litigants, attorneys, court staff, or other participants in the court process.
- Consider improving information sharing in the following ways:
 - ✓ Through a protocol with a tribal court in your county
 1. As part of an existing protocol, the court case manager, case coordinator, or clerk, when researching to find related cases, can also seek information from the tribal court in your county to see if the parties have a pending tribal court case or has issued an order. The protocol can then address how to allocate jurisdiction, transfer jurisdiction, or defer to the tribal court jurisdiction if it has already exercised jurisdiction.
 - ✓ Through the use of technology:
 1. For cases involving protective orders, search the California Courts Protective Order Registry, which is a statewide repository that provides complete, accessible information to judicial officers and law enforcement on restraining and protective orders. (As of the writing of this, 32 counties and 11 tribal courts are using this database.)
 2. Searching case registries of actions if the court has a protocol for obtaining information on pending tribal court cases

CALIFORNIA TRIBAL COURT–STATE COURT FORUM

Frequently Asked Questions: Indian Tribes and Tribal Communities in California

That a war of extermination will continue to be waged between the races, until the Indian race becomes extinct, must be expected. While we cannot anticipate this result but with painful regret, the inevitable destiny of the race is beyond the power or wisdom of man to avert.

—California Governor Peter H. Burnett, January 7, 1851

So let us work to bring this generation and the next seven generations a world of abundant hope and opportunity, where all tribes have vanquished poverty and disease and all people have the tools to achieve their greatest potential.

—U.S. President William J. Clinton, August 6, 1998

We also recommit to supporting tribal self-determination, security, and prosperity for all Native Americans. While we cannot erase the scourges or broken promises of our past, we will move ahead together in writing a new, brighter chapter in our joint history.”

—U.S. President Barack Obama, November 13, 2013

1. How many California tribes are there?

There are approximately 110 federally recognized Indian tribes, including several tribes with lands that cross state boundaries. There are also about 81 groups seeking federal recognition.

2. Where are the tribes located?

California’s tribes are everywhere throughout the state, including

- Near highly populated cities like San Diego, and Sacramento
- In rural areas
- Close to the borders (and sometimes across the borders) of other states, such as Arizona, Oregon, and Nevada
- In the mountains of northern and eastern California
- In the high deserts of southern and southeastern California
- On the coast, on the rivers, and around the lakes

3. How many Native Americans reside in California?

California has the highest Native American population in the country. According to the 2010 U.S. Census, California represents 12 percent of the total Native American population (approximately 720,000) identified themselves as Native American. Over one-half of the state's Native American population is composed of individuals (and now their descendents) who were relocated to large urban areas as part of the federal government's termination policy.

4. How large are the California tribes?

California's tribes are as small as five members and as large as 6,000 members.

5. Why is the Native American population so diverse?

Like all other tribes around the country, California's tribes have a tragic and tumultuous history.

- Before the missionary, fur trapping, and gold rush era migrations, California's Native American population was estimated at about 200,000.
- Between 1840 and 1870, however, that population declined to 12,000 due to disease, removal, and death.
- Between 1851 and 1852, 18 treaties were signed between the tribes and the United States. The treaties reserved 7.5 million acres for the tribes but were rejected by the U.S. Senate in secret session at the request of the State of California. The tribes, believing that the treaties were valid, relinquished the historic territories and moved to the reserved acreage. However, once they reached their new locations, they were turned away. The tribes were not officially notified of the reason for this until 1905, some 55 years later.
- In the 1850s, California passed a series of laws pertaining to its Native American population. These laws allowed:
 - A justice of the peace to remove Indians from lands in a white person's possession
 - Any Indian to be declared vagrant (upon word of a white person), thrown in jail, and sold at auction for up to four months with no pay
 - The kidnapping, selling, and use of Indian children as slaves
 - Indentured servitude of any Indian (one report mentioned 110 servants who ranged from ages 2 to 50, 49 of whom were between 7 and 12 years old)
 - Prohibited Indians from testifying in court against a white person
- In the 1950s, nearly 100 years later, the federal government's continued attempts to force assimilation on the entire Native American population

resulted in the termination (i.e., loss of federally recognized status) of over 109 tribes throughout the United States. In California, this came about through the Rancheria Act of 1958, which resulted in the termination of federal status of 44 Indian tribes.

- The Relocation Act of 1956 provided funding to establish relocation centers for Native Americans in urban areas like Denver, Chicago, Los Angeles, and San Francisco, and to finance the relocation of individual Native Americans and their families.
 - Funding for similar reservation-based programs was denied.
 - Those who participated in the federal relocation programs were usually required to sign agreements that they would not return to their respective reservations to live.
 - Between 60,000 and 70,000 out-of-state Native Americans settled in Los Angeles and San Francisco. To date, these cities have two of the largest urban Native American populations in the United States.

6. How are California's Indian child welfare issues impacted by this history?

This history, combined with the treatment of Native American children that resulted in the passage of ICWA, the effects of Public Law 280, and the county-based system in place in California provide significant, but not impossible, challenges.

- Large urban Native American populations from out-of-state tribes create a continuing issue concerning notice to and participation of out-of-state tribes.
- Diverse governmental, cultural, social, economic, and geographic factors come into play because every tribe, regardless of its size, has its own governmental structure and process, cultural and social standards, economic issues, and specific social services needs.
- Jurisdictional issues and questions are inevitable because given the many tribal courts in California, with more in development. To learn more about the tribal courts in California, see <http://www.courts.ca.gov/14400.htm>.

7. What tribal programs are in place today?

- Many tribes have developed their own social services programs, which include child welfare departments; these programs provide training, counseling, advocacy, and other services for children and families.
- There are no Indian Health Service (IHS) facilities in California. In urban areas, there are urban Indian health programs funded in part by federal dollars. Tribes own and operate their own health programs through contracts and compacts with IHS under the federal Indian Self-Determination and Education Assistance Act. Many of these programs provide their own counseling and treatment programs.

CALIFORNIA TRIBAL COURT–STATE COURT FORUM

March 2012

Native American Statistical Abstract: Population Characteristics

The Tribal/State Programs of the Judicial Council’s Center for Families, Children & the Courts has developed a series of informational abstracts that bring together the available data from various sources on American Indians and Alaskan Natives (AI/AN) nationally, statewide, and tribally specific to California’s AI/AN population. The purpose of these abstracts is to develop and disseminate justice-related information and links to reports to ensure the highest quality of justice and service for California’s AI/AN population. This information is intended for the state judicial branch, tribal justice systems, tribal organizations, state agencies, and local agencies to support effective collaboration and tribal justice development.

Note: This update was originally published in July 2011, with data from the 2000 Census. It was updated in March 2012 with data from the 2010 Census.

National Tribal Population

- According to the 2010 Census, 5.2 million U.S. residents reported being AI/AN alone or in combination with some other race, and over 2.9 million reported being AI/AN alone.¹ Among counties in the United States, Los Angeles County (CA) had the highest population of AI/AN alone in 2000 (76,988).²
- In 2010, the majority of the AI/AN-alone population (67 percent) and the majority of the AI/AN-in-combination³ population (92 percent) lived outside of tribal areas.⁴
- In 2010, Cherokee was the largest tribal population, representing approximately 16 percent of the total AI/AN population. The Cherokee population, at more than 819,000, is more than twice the size of the Navajo, the second-largest tribal population, at over 332,000. Other large tribal

¹ Tina Norris, Paula L. Vines, and Elizabeth M. Hoeffel, “2010 Census Briefs: The American Indian and Alaska Native Population: 2010.” (Bureau of the Census, Jan. 2012), p. 4, table 1, <http://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf> (as of March 5, 2012).

² U.S. Census Bureau, Census 2000, Summary File 2.

³ AI/AN alone refers to the population that self-identifies as being only AI/AN. AI/AN in combination refers to the population that self-identifies as being AI/AN in combination with one or more other races.

⁴ Norris, et al, *supra*, p. 12, figure 6.

populations (roughly 170,000 or more) include Choctaw, Mexican American Indian, Chippewa, and Sioux.⁵

California Tribal Population

- In 2010, California had the largest population of AI/AN alone (362,801); the second-largest AI/AN population was in Oklahoma (321,687), followed by Arizona (296,529). California represented 12 percent of the total AI/AN-alone population in the United States. California had more than 720,000 AI/AN citizens (alone or in combination with another race) residing in both rural and urban communities.⁶
- Although California has the largest tribal population in the United States, it has very little tribal land. (See http://www.waterplan.water.ca.gov/tribal2/docs/GW_Basins_and_Tribal_Trust_Lands_map.pdf.)
- As of 2005, only 3 percent of California's AI/AN population lived on a reservation or rancheria.⁷
- California's Native American communities include descendants or members of 108 California-based federally recognized tribes (about 20 percent of all tribes in the United States).⁸ As of 2008, an additional 74 tribes in California are petitioning for federal recognition.
- The California tribal population consists of a significant number of members of tribes not based in California. More than half of the Native Americans living in California are members of tribes located outside of California.⁹
- The AI/AN-alone or -in-combination population makes up 2 percent of California's total population. Approximately 50 percent of California's AI/AN population is AI/AN in combination with one or more other races (predominantly white), and 50 percent of California's AI/AN population identifies as AI/AN alone.¹⁰
- Cherokee is the largest tribal population in California (approximately 18 percent), followed by Apache (6 percent), Navajo (5 percent), and Choctaw (5 percent).¹¹

⁵ Norris, et al, *supra*, p. 18, figure 8. These figures are for individuals identifying as AI/AN alone or in combination with one or more other races.

⁶ Norris, et al, *supra*, p. 7, table 2.

⁷ National Indian Child Welfare Association, *American Indian/Alaska Native Fact Sheet for the State of California* (2005), www.nicwa.org/states/California.pdf (as of July 8, 2011).

⁸ For a complete listing of tribal entities by state, see the Bureau of Indian Affairs' *Tribal Leaders Directory* (Spring 2011) at www.bia.gov/idc/groups/xois/documents/text/idc002652.pdf (as of July 8, 2011).

⁹ U.S. Census Bureau, Population Division, "Table 19: American Indian and Alaska Native Alone and Alone or in Combination Population by Tribe for California: 2000," www.census.gov/population/www/cen2000/briefs/phc-t18/tables/tab019.pdf (as of July 8, 2011).

¹⁰ Norris, et al, *supra*, p. 7, table 2.

¹¹ Elias S. Lopez, Ph.D., *Census 2000 for California: A Friendly Guide* (Cal. Research Bureau, July 2002), www.library.ca.gov/crb/02/07/02-007.pdf (as of July 8, 2011).

County Tribal Populations

- Based on the 2000 U.S. Census, Los Angeles County (CA) has the largest AI/AN-alone population (76,988) in the United States.
- Ten California counties are included in the 50 U.S. counties with the highest AI/AN-alone populations. In addition to Los Angeles County, San Diego, San Bernardino, Orange, and Riverside Counties are among the top 20 in that group (see table 1).¹²
- Alpine County has the highest proportion of AI/AN-alone residents (19 percent), followed by Inyo County (10 percent), and Del Norte County (6 percent).¹³

Table 1. California Counties With the Largest AI/AN-Alone Populations

County	Population	U.S. Rank
Los Angeles	76,988	1
San Diego	24,337	11
San Bernardino	19,915	14
Orange	19,906	15
Riverside	18,168	17
Sacramento	13,359	24
Fresno	12,790	26
Santa Clara	11,350	30
Kern	9,999	38
Alameda	9,146	43

Source: 2000 U.S. Census

Education and Household Income

- Nationally, the AI/AN-alone population has a lower percentage of individuals with at least a high school diploma (71 percent) than does the general population (80 percent). This discrepancy is largely because the AI/AN population is less likely to have a bachelor's (or higher) degree (11 percent) than the general population (24 percent).¹⁴
- In California we see a similar discrepancy in educational attainment. The percentage of individuals with at least a high school diploma is lower for the AI/AN-alone population than for the California population as a whole (68 percent and 74 percent, respectively) as is the percentage of those with a Bachelor's (or higher) degree (11 percent, compared to 27 percent of California as a whole).¹⁵
- The median income for all California households is \$47,493, whereas the median income for the AI/AN-alone population is \$36,547.¹⁶
- Thirty-four percent of AI/AN households have an income of less than \$20,000. Of those, roughly half (17 percent) have an income of less than \$10,000.
- About 62 percent of all AI/AN households fall below the U.S. median household income level.

¹² U.S. Census Bureau, "Table 9: Counties with an American Indian and Alaska Native Alone Population Greater Than Zero, Ranked by Number: 2000" (Aug. 2001), www.census.gov/population/www/cen2000/briefs/phc-t14/tables/tab09.pdf (as of July 8, 2011).

¹³ U.S. Census Bureau's American FactFinder, Census 2000, Summary File 1, "GCT-P6. Race and Hispanic or Latino: 2000."

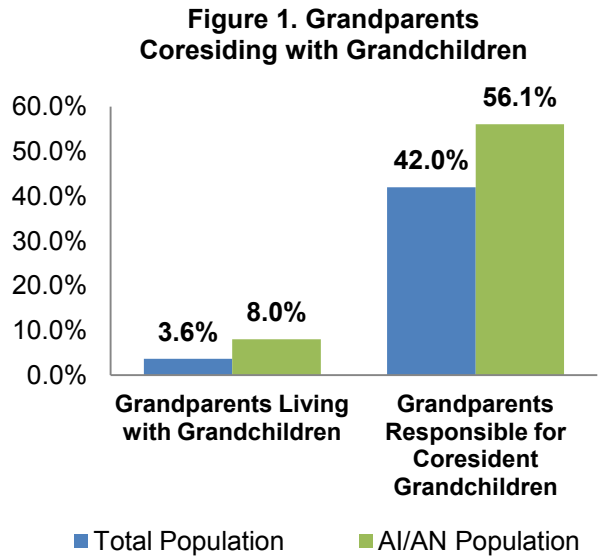
¹⁴ U.S. Census Bureau's American FactFinder, Census 2000, Summary File 2 and Summary File 4, "Census 2000 Demographic Profile Highlights: Selected Population Group: American Indian and Alaska Native alone."

¹⁵ *Ibid*

¹⁶ *Ibid*

Households and Families

- The AI/AN population has a lower proportion of married-couple households (45 percent) than does the U.S. population as a whole (53 percent) and a higher proportion of both male-headed and female-headed households with no spouse present (28 percent) than that of the total U.S. population (16 percent).¹⁷
- The AI/AN population has a higher average household size (3.06 persons) than does the U.S. population as a whole (2.59).¹⁸
- Nearly 4 percent of the total U.S. grandparent population (30 years old and over) live with grandchildren, whereas 8 percent of the AI/AN population of grandparents live with grandchildren.¹⁹
- AI/AN grandparents are more likely to be responsible for coresident grandchildren (56 percent) than is the total U.S. population (42 percent), as illustrated in figure 1.²⁰



¹⁷ Stella U. Ogunwole, U.S. Census Bureau, *We the People: American Indians and Alaska Natives in the United States* (2006).

¹⁸ *Ibid.*

¹⁹ U.S. Census Bureau, *Grandparents Living With Grandchildren: 2000* (Oct. 2003).

²⁰ *Ibid.*

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The Center for Families, Children & the Courts generates and distributes research-based information that has promise for informing the work of the courts in California and nationwide. To learn more about its work and to see more *Research Updates*, visit <http://www.courts.ca.gov/cfcc-publications.htm>.

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The views in this research update are those of the author and do not necessarily represent the official positions or policies of the Judicial Council of California.

The staff names listed above have been updated as of October 2013; otherwise the content of this research update remains unchanged.



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FACT SHEET

October 2014

Tribal/State Programs

Established in November of 2009, as part of the Center for Families, Children & the Courts, this unit assists the state judicial branch with the development of policies, positions, and programs to promote the highest quality of justice and service for California's Native American communities in all case types and implements tribal-state programs that improve the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps.

Goals

The goals of the Tribal/State Programs Unit are to:

1. Conduct community outreach to California's Native American citizens who reside on reservations or rancherias and in urban communities to provide information about the judicial branch—the state courts and court-connected services;
2. Collaborate with tribes in California and California's Native American communities, organizations, and service providers to gather information about the justice-related needs of California's Native American citizens;
3. Develop and promote strategies and programs that are responsive to identified justice-related needs;
4. Provide education and technical assistance to state courts and court-connected services on Public Law 280, Indian law issues relating to domestic violence, dating violence, sexual assault and stalking, the Indian Child Welfare Act, and indigenous justice systems;
5. Act as a liaison between the state and tribal courts to build professional relationships and to improve access by tribal courts to education, technical assistance, and other resources;
6. Promote mutually beneficial intergovernmental cooperation among tribal courts, state courts, and appropriate tribal, state, and local agencies; and

7. Develop and disseminate justice-related information and reports needed by tribal and state agencies to work together effectively.

Activities for 2014-2015

The unit's activities include Tribal Court-State Court Forum activities, Indian Child Welfare Act services, judicial education and resources on federal Indian law, and serving as a clearinghouse of information on California's tribal communities and tribal justice systems.

Tribal Court/State Court Forum (forum)

The forum, established by the Chief Justice, comprised of tribal court judges and state court judges and justices, makes policy recommendations to the Judicial Council on issues relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases that might appear in either court system, and the sharing of services between jurisdictions.

<http://www.courts.ca.gov/3065.htm> and <http://www.courts.ca.gov/forum.htm>

Education and Legal Services

This unit provides education and legal services to judges on federal Indian law as it applies to all civil and criminal cases.

www.courts.ca.gov/8710.htm

Legal and Court Services on the Indian Child Welfare Act (ICWA)

This unit provides education, technical assistance, and resources to comply with ICWA in juvenile dependency and delinquency cases, family custody and probate guardianship cases. Educational offerings include regional trainings and local collaborative workshops addressing the following topics:

- When ICWA applies
- Exclusive versus concurrent jurisdiction
- Duty of inquiry
- Determination of tribal membership or eligibility for membership
- Notice to tribes
- Tribal participation and intervention
- Active efforts, including culturally appropriate services
- Cultural case planning

- Placement preferences
- Qualified expert witnesses

Educational workshops are tailored to meet the needs identified by local courts.

www.courts.ca.gov/3067.htm

Clearinghouse of Resources

- California's Tribal Communities
www.courts.ca.gov/3066.htm
- Tribal Justice Systems
Resources on tribal courts and for tribal courts
www.courts.ca.gov/3064.htm
- Family Violence and Tribal Communities
Resources relating to cases of domestic violence, dating violence, sexual assault, trafficking, elder abuse, and stalking and Native American communities
www.courts.ca.gov/14851.htm
- Professional Resources
 - California Tribal Courts Directory (www.courts.ca.gov/14400.htm)
 - California Tribal Court Map (<http://g.co/maps/cvdq8>)
 - Statewide Directory of Native American Services
(<http://www.courts.ca.gov/5807.htm>)

Funding

This unit is supported with funds from the Office on Violence Against Women, U.S. Department of Justice that are administered through the Governor's Office of Emergency Services (Cal OES), the U.S. Department of Health and Human Services, Court Improvement Program, and the California Department of Social Services.

Contact:

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415-865-7687

Additional resources:

www.courts.ca.gov/programs-tribal.htm



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FACT SHEET

August 2014

Tribal Court–State Court Forum

Established in May 2010, the California Tribal Court–State Court Forum (forum) is a coalition of the various tribal court and state court leaders who come together as equal partners to address areas of mutual concern. In October 2013, the California Judicial Council (council) adopted rule 10.60 of the California Rules of Court establishing the forum as a formal advisory committee. In adopting this rule, the council added a Comment acknowledging that tribes are sovereign and citing statutory and case law recognizing tribes as distinct, independent political nations that retain inherent authority to establish their own form of government, including tribal justice systems.

Charge and Duties

The forum makes recommendations to the council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlap.

In addition to the duties described in [rule 10.34](#), the forum must:

1. Identify issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California;
2. Make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases that might appear in either court system, and the sharing of services between jurisdictions;
3. Identify, develop, and share with tribal and state courts local rules of court, protocols, standing orders, and other agreements that promote tribal court–state court coordination and cooperation, the use of concurrent jurisdiction, and the transfer of cases between jurisdictions;
4. Recommend appropriate activities needed to support local tribal court–state court collaborations; and
5. Make proposals to the Governing Committee of the Center for Judicial Education and Research on educational publications and programming for judges and judicial support staff.

Objectives

1. Foster partnerships with tribes, tribal courts, and state branches of government that enable tribal and state courts to issue and enforce their respective orders to the fullest extent allowed by law;
2. Foster excellence in public service by promoting state and tribal court collaboration that identifies new ways of working together at local and statewide levels and maximizes resources and services for courts;
3. Provide policy recommendations and advice on statewide solutions to improve access to courts (for example, see solutions identified in the California reports relating to domestic violence, sexual assault, stalking and teen-dating violence in Native American communities <http://www.courts.ca.gov/8117.htm>);
4. Identify opportunities to share educational and other resources between the state judicial branch and the tribal justice systems;
5. Make recommendations to committees developing judicial education institutes, multi-disciplinary symposia, distance learning, and other educational materials to include content on federal Indian law and its impact on state courts; and
6. Improve the quality of data collection and exchange related to tribe-specific information.

Activities for 2014-2015

The forum activities for this fiscal year include coordinating information and resource sharing, developing a rule proposal, educational projects, promoting tribal/state protocols and implementing other collaborative initiatives.

- Coordinate information and resource sharing through a monthly electronic newsletter (the Forum E-Update <http://courts.ca.gov/3065.htm>), resource booths at the Native American Day at the Capitol and the 14th National Indian Nations Conference, cross-court cultural exchanges, and the development of a documentary on tribal justice systems.
- Make recommendation to amend rule 5.483 to ensure that the order for transfer of a juvenile case from state court to tribal court addresses issues such as when and to whom physical transfer of the child shall take place and what necessary information from the court and agency files will be provided to the tribal court and tribal social service agency upon transfer.
- Review state judicial educational publications and programming and make recommendations for content changes to address questions of federal Indian law and advise on the creation of new judicial educational tools to assist state court judges in addressing issues relating to federal Indian law;

- Plan and serve as faculty for educational sessions on the forum, effective tribal/state collaboration, and legal topics of interest to tribal and state court judges (to view all forum educational activities <http://courts.ca.gov/documents/Tribal-Forum-RelatedEdActivities.pdf>);
- Develop local rules and protocols to promote collaboration and promising practices and address where state and tribal court jurisdiction overlap;
- Promote the sharing of protective order information between tribal and state courts through the use of the California Court Protective Order Registry (CCPOR), a state judicial branch database, which statewide repository that contains complete and up-to-date information on restraining and protective orders, including order images;
- Promote the electronic noticing in Indian Child Welfare Act cases by recommending that the Los Angeles County's automated system be adapted for use statewide;
- Recommend and assist in the implementation of a tribal/state domestic violence technical and educational assistance project focused on local tribal-state-county collaboration; and
- Recommend and assist in the development of a toolkit to encourage cross-court site visits between court personnel and to facilitate shared learning among local tribal, state, and federal courts in California.

Funding

The forum is supported with funds from the Office on Violence Against Women, U.S. Department of Justice that are administered through the Governor's Office of Emergency Services (Cal OES), the U.S. Department of Health and Human Services, Court Improvement Program, and the California Department of Social Services.

Contact:

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Additional resources:

www.courts.ca.gov/forum.htm

What if I do not see the type of local educational or technical assistance my court needs?

- ◆ Any assistance focusing on tribal-state-county collaboration—At the request of judges, Tribal/State Programs Unit staff will tailor an educational event to meet local educational needs or provide technical assistance in response to locally identified and targeted needs.

How to learn about local tribal courts and state courts?

To learn if there's a tribal court in your county, please visit the California Tribal Courts Directory (www.courts.ca.gov/14400.htm) or the tribal jurisdictions map (<http://g.co/maps/cvdq8>).

To learn about the local state court in your county, please visit Find My Court www.courts.ca.gov/find-my-court.htm.

What steps can judges take to improve safety for Native victims?

- ◆ Directly communicate with each other and identify issues of mutual concern.
- ◆ Invite each other to observe court proceedings.
- ◆ Invite each other to participate in justice system meetings or work with each other's justice partners.
- ◆ Learn about each other's courts and procedures.
- ◆ Jointly conduct local or regional trainings.
- ◆ Understand the unique historical trauma responses of Native Americans.

FOR MORE INFORMATION

The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts assists the state judicial branch with the development of policies, positions, and programs to promote the highest quality of justice and service for California's Native American communities in all case types. The unit also implements tribal-state programs that improve the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps. To learn more about the Tribal/State Programs Unit or for assistance, call Jennifer Walter at 415-865-7687 or visit www.courts.ca.gov/programs-tribal.htm.

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S.T.E.P.S. TO JUSTICE— DOMESTIC VIOLENCE

State/Tribal Education,
Partnerships, and
Services—Information for
Tribal Court and
State Court Judges

November 2014



JUDICIAL COUNCIL
OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

This project sets aside funds to provide local educational and technical assistance to tribal and state courts on issues relating to domestic violence.

What is the extent of the problem of domestic violence?

Domestic violence is a particularly troubling issue in Native American communities.

- ◆ 39% of American Indian women report some form of intimate partner violence in their lifetimes, higher than the rate reported by any other race or ethnic group.
- ◆ American Indian victims of intimate and family violence are more likely than victims of other racial groups to be seriously injured and require hospital care.
- ◆ Among American Indian victims of violence, 75% of intimate victimizations and 25% of family victimizations involve an offender of a different race.

For detailed statistics and citations, www.courts.ca.gov/documents/Tribal-NAmericanStatsAbstract.pdf.

What type of local educational assistance is offered?

- ◆ **Faculty**—Identify faculty or pay for travel or other faculty costs.
- ◆ **Facilitator**—Obtain a facilitator for a training or meeting, which brings together tribal and non-tribal representatives.
- ◆ **Educational Materials**—Gather, copy, or develop educational materials.
- ◆ **Educational Curriculum**—Use or tailor our curriculum (i.e., P.L. 280, tribal advocates, Comings and Goings etc.).
- ◆ **Train-the-Trainers**—Train local experts.
- ◆ **Educational Training or Workshop**—Develop a program—brown bag, workshop, or full-day training.

- ◆ **Judge-to-Judge or Court-to-Court**—Structured opportunities for connecting tribal and state court judges or court administrators so that they can learn from each other (e.g., court observations, participation in justice system meetings, sharing information on court operations and procedures).
- ◆ **Cross-Court Educational Exchange**—Convene an educational exchange to learn about each other's courts, share resources, identify local court concerns, and implement local and statewide solutions.
- ◆ **Coordinated Court-Community Responses**—Assistance with tribal/state/county engagement (e.g., help with engaging participation at a domestic violence coordinating council, task force, or other system meeting).

What type of technical assistance is available to support tribal capacity-building?

- ◆ **Judicial Council Forms**—Accessing state judicial branch forms so that they may be used as a basis for creating tribal court forms.
- ◆ **California Courts Protective Order Registry**—Accessing this registry and receiving training on how to use it. Through this dedicated online database, state courts and tribal courts can view each other's protective orders. The courts that have access are better able to protect the public, particularly victims of domestic violence, and avoid issuing redundant or conflicting orders. Learn more at www.courts.ca.gov/15574.htm.

- ◆ **Registering Tribal Protective Orders**—Assistance developing a local protocol or rule to implement California Rules of Court, rule 5.386, which requires state courts, at the request of a tribal court, to adopt a written procedure or local rule permitting the fax or electronic filing of any tribal court protective order that is entitled to be registered under Family Code section 6404. Learn more about the new rule at www.courts.ca.gov/documents/SPR11-53.pdf.
- ◆ **Online Resources**
 - Court Extranet:** This website contains information relevant to all levels of judicial branch personnel and includes resources designed to meet education, facilities, financial, human resources, legal, special court projects, technology, and other informational needs. It also offers both current news and archived resources.
 - CJER Online:** This website contains educational and other resources for state court judges and tribal court judges. It offers a calendar listing judicial institutes.
 - Dependency Online Guide:** This website contains dependency-related case law, legal materials, articles, and other resources.
- ◆ **Attendance at Judicial Institutes**—All state judicial branch educational programs are open to tribal court judges and offer continuing legal educational credit. There may be limited funding for scholarships to pay for travel expenses.
- ◆ **Security**—Consultation on court security.
- ◆ **Human Resources**—Consultation on court human resource questions.
- ◆ **Letters of Support for Domestic Violence Grant Applications.**

Looking for services for Native American children and families?

www.courts.ca.gov/5807.htm

What steps can judges take to improve child welfare outcomes for Native children and families?

- ◆ Regularly collect and track data on these cases.
- ◆ Ongoing and meaningful collaboration among courts, child welfare agencies, and tribes
- ◆ Ongoing education for all court system participants
- ◆ Organize court operations and personnel to reflect the specialized knowledge needed and lessons learned from data collection

These steps are based on the Pew Commission recommendations and Court Reform and American Indian and Alaskan Native Children, see www.ncjfcj.org/resource-library/publications/court-reform-and-american-indian-and-alaskan-native-children

What if I do not see the type of service my court needs?

Contact us because we will tailor our services to meet your court's needs.

FOR MORE INFORMATION

The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts assists the state judicial branch with the development of policies, positions, and programs to promote the highest quality of justice and service for California's Native American communities in all case types. The unit also implements tribal-state programs that improve the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps. To learn more about the Tribal/State Programs Unit or for assistance, call Jennifer Walter at 415-865-7687 or visit www.courts.ca.gov/programs-tribal.htm.

This project is supported with funds from the California Department of Social Services.

www.courts.ca.gov/3067.htm

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S.T.E.P.S. TO JUSTICE— CHILD WELFARE

State/Tribal Education,
Partnerships, and Services—
Information for Tribal Court
and State Court Judges

March 2015



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JUDICIAL COUNCIL
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OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

What is ICWA?

ICWA is a federal law that seeks to keep Native American children within their cultures and communities. Congress passed ICWA in 1978 in response to the alarmingly high number of Indian children being removed from their homes by both public and private agencies. The intent of Congress was to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families” (25 U.S.C. § 1902). ICWA sets minimum federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe.

Why is it relevant today?

Nationally, Native American children still disproportionately enter into foster care. In California, Native American children are overrepresented in the foster care system at a rate of 1.3 to 2.0. That means that, in California, the proportion of Native American children in foster care may be nearly twice as high as the proportion in the general population.

For more information about disproportionality, see www.ncjfcj.org/resource-library/publications/disproportionality-rates-children-color-foster-care-2013-technical


What legal services are offered?

Domestic violence is a particularly troubling issue in Native American communities.

- ◆ Job aids
www.courts.ca.gov/8103.htm
- ◆ Law and regulations
www.courts.ca.gov/8709.htm
- ◆ Qualified expert witnesses
www.courts.ca.gov/8105.htm
- ◆ Distance learning opportunities
www.courts.ca.gov/8075.htm#tab15022
- ◆ Curriculum
www.courts.ca.gov/8075.htm#tab14468
- ◆ Tribal customary adoption
www.courts.ca.gov/12569.htm

What court services are offered?

- ◆ Education on the following topics:
 - When ICWA applies
 - Exclusive versus concurrent jurisdiction
 - Duty of inquiry
 - Determination of tribal membership or eligibility for membership
 - Notice to tribes
 - Tribal participation and intervention
 - Active efforts, including culturally appropriate services
 - Cultural case planning
 - Placement preferences
 - Qualified expert witnesses
 - Historical trauma
- ◆ Tribal engagement
- ◆ Needs assessment
- ◆ Courtesy file review
- ◆ Tribal/State/County collaboration
- ◆ Connecting to Tribal-specific services



Disproportionality Rates for Children of Color in Foster Care
2013 Technical Assistance Bulletin
June 14, 2013

Since 2011, the NCJFCJ has published *Disproportionality Rates for Children of Color in Foster Care Technical Assistance Bulletins*, which identify the disproportionality rates for all state and select Model Courts across the country. The reports have gained national attention and have been used in a number of ways by a broad spectrum of stakeholders and interested parties. Due to the ongoing need...

[MORE](#)

Are there Native Americans in my county?

The July 2011 *Research Update** on the Native American population of California includes a number of demographic facts:

- ◆ California is home to 12 percent of the total Native American population of the United States, more than any other state.
- ◆ More than half of California's Native Americans belong to tribes originating in other states; Cherokee represent the state's largest tribal population (18 percent), followed by Apache (6 percent), and Navajo and Choctaw (5 percent each).
- ◆ Only 3 percent of Native Americans in California live on reservations or rancherias.

How can judges from tribal and state courts work together to benefit California's tribal communities?

- ◆ Contact your counterpart in the other court and suggest swapping invitations to observe court proceedings, participate in justice system meetings, and learn more about one another's courts and procedures.
- ◆ Communicate directly with the other court to identify and resolve issues of mutual concern.
- ◆ Convene cross-jurisdictional meetings with law enforcement agencies and other justice partners.
- ◆ Conduct joint local or regional trainings to address issues common to your justice systems.

* www.courts.ca.gov/documents/Tribal-ResearchUpdate-NAStats.pdf

FOR MORE INFORMATION

The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts, provides support to local courts on tribal issues and assists with the development of policies, positions, and programs to ensure the highest quality of justice and service for California's Native American communities. The unit also serves as a liaison to those communities in cases relating to the Indian Child Welfare Act (ICWA) and family violence matters.

To learn more about the Tribal/State Programs Unit or for assistance with issues related to a tribal matter, call Jennifer Walter at 415-865-7687 or visit www.courts.ca.gov/programs-tribal.htm

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RECOGNITION AND ENFORCEMENT OF TRIBAL PROTECTIVE ORDERS

Information for tribal court and state court judges on matters involving domestic violence



JUDICIAL COUNCIL
OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

This pamphlet is intended to help tribal court and state court judges learn more about the recognition and enforcement of each other's protective orders in matters where domestic violence affects individuals of American Indian or Alaskan Native heritage.

What is the extent of the problem of domestic violence among Native Americans?

Domestic violence is a particularly troubling issue in Native American communities.

- ◆ 39% of American Indian women report some form of intimate partner violence in their lifetimes, higher than the rate reported by any other race or ethnic group.
- ◆ American Indian victims of intimate and family violence are more likely than victims of other racial groups to be seriously injured and require hospital care.
- ◆ Among American Indian victims of violence, 75% of intimate victimizations and 25% of family victimizations involve an offender of a different race.

For detailed statistics and citations, see the Judicial Council's Native American Statistical Abstract: Violence and Victimization (January 2012) at www.courts.ca.gov/documents/Tribal-NAmericanStatsAbstract.pdf.

What is the federal Violence Against Women Act (VAWA)?

The federal Violence Against Women Act, or VAWA (42 U.S.C. chapter 136, subchapter III), was enacted by Congress in 1994 to address the problem of states' inconsistent enforcement of domestic violence laws. VAWA's purpose is "to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law." Congress amended the act in 2000 and 2005.

Full Faith and Credit. Both VAWA and California law mandate full faith and credit for protective orders issued by tribal courts in accordance with VAWA requirements. (See 18 U.S.C. § 2265; and California's Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (Fam. Code, §§ 6400–6409).)

Under these laws, a protective order issued by a tribal or sister-state court is entitled to full faith and credit and enforcement and does not need to be registered in California.

What challenges may hinder enforcement of protective orders for Native Americans?

In practice, despite the full faith and credit mandate, many law enforcement agencies and officers will not enforce a protective order unless it can be verified in the California Restraining and Protective Orders System (CARPOS) through the California Law Enforcement Telecommunication System (CLETS). State and county law enforcement agencies have access to CLETS and can enter and view protective orders, but most tribal law enforcement agencies do not have access. Absent a local law enforcement protocol or the state court's registering a tribal protective order, it will not be entered in CARPOS.

Another challenge is to avoid conflicting or redundant protective orders issued by tribal courts and state courts.

What solutions exist to these challenges?

The California Tribal Court–State Court Forum, established in May 2010, discussed these issues and recommended two viable solutions, see below.

Efficient and consistent process. Effective July 1, 2012, rule 5.386 of the California Rules of Court requires all state courts, upon request by a tribal court, to adopt a written procedure or local rule permitting the fax or electronic filing of any tribal court protective order entitled under Family Code section 6404 to be registered. Learn more at www.courts.ca.gov/documents/SPR11-53.pdf.

California Courts Protective Order Registry.

Through this dedicated online database, state courts and tribal courts can view each other's protective orders. Courts that have access to the registry are better able to protect the public, particularly victims of domestic violence, and avoid issuing conflicting orders. Learn more at www.courts.ca.gov/15574.htm.

Is there a tribal court in my jurisdiction?



CALIFORNIA COURTS

THE JUDICIAL BRANCH OF CALIFORNIA

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Federal Indian Law

The field of Federal Indian law regulates the legal relationships between Indian Tribes, the United States, and States. It is incredibly complex and has significance for everyone. The field of Indian Law involves issues of real property, international law, administrative law, constitutional law, water law, federal jurisdiction, procedure, contracts, criminal law, etc. This federal Indian legal toolkit was created to assist new and experienced judges in cases involving domestic violence by providing easy access to law and other resources. These resources include links to federal law, cases, publications, online courses, video presentations, and other resources relevant to handling cases that cross jurisdictional lines between a tribal and state court.

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[Tribal Communities in California](#)

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[Federal and State Procedures Relating to Cases Involving Native Americans](#)

[Sources of Federal Indian Law: Constitution, Federal Statutes, and Cases](#)

[Historical Context in Which Tribal/State Relations Exist](#)

[Publications](#)

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FEDERAL INDIAN LAW BY TOPIC

[Domestic Violence](#)

This domestic violence resources page includes links to (1) an overview of the law; (2) federal, state, and tribal laws; (3) publications; (4) subscription databases; (5) videos; (6) online courses; and (7) other resources relevant to handling domestic violence cases that cross jurisdictional lines between a tribal and state court.

Recommendation: The Tribal Court-State Court Forum recommends submitting the following comments in support of the proposed regulations: Indian Child Welfare Act (ICWA) Integration throughout Division 31, ORD No. 0614-05 issued by the California Department of Social Services (CDSS).¹

The Judicial Council of California supports CDSS's efforts to promote full compliance with the Indian Child Welfare Act (ICWA) through the enactment of these regulations intended to ensure that those interacting with Indian children and families in the context of child welfare proceedings are fully aware of their obligations and requirements under ICWA. Understanding ICWA requirements and responsibilities is essential to promoting the best interests of Indian children by ensuring connection to their tribes and their cultures. It is the public policy of this state to promote the best interest of an Indian child by encouraging and protecting the connection to the child's tribe and tribal community. (See Welfare and Institutions Code section 224(a)(2).)

The Judicial Council of California submits the comments below with the goal of further strengthening the proposed regulations as they relate to the interaction between child welfare agencies and the courts. The comments are intended to ensure that the regulations are consistent with federal and state law concerning ICWA.

California law and public policy support full enforcement of ICWA through statutory enactments, regulatory efforts and judicial rules and forms. Most significantly, in 2006, the state enacted Senate Bill 678, which incorporated many provisions of the federal statute, regulations, and guidelines governing ICWA into its Welfare and Institutions, Family and Probate Codes. The Legislature's intent was to ensure that California standards governing ICWA were at least as protective as federal law. In some instances, California law was made more protective of the rights of Indian children, parents, Indian custodians and tribes than federal law.

In February 2015, the Bureau of Indian Affairs issued new Guidelines for State Courts and Agencies in Indian Child Custody Proceedings (Guidelines).² Those new Guidelines became effective as soon as they were published in the federal register. California courts have consistently held that the Guidelines are entitled to great weight and deference as they represent the construction of the statute by the executive department charged with its administration.³ In addition, the Bureau of Indian Affairs has expressed its intention to adopt new federal ICWA regulations.⁴ The content of the proposed regulations is similar to that of the new Guidelines. When finalized, the regulations will be binding upon state courts and agencies.

¹ The proposal can be found at <http://www.dss.cahwnet.gov/ord/PG4808.htm>

² Those Guidelines are available here <http://www.indianaffairs.gov/cs/groups/public/documents/text/idc1-029637.pdf>

³ *In re Kahlen W.* (1991) 233 Cal. App. 3d 1414; *In re Desiree F.* (2000) 99 Cal Rptr. 2d 688; *In re. H.A.* (2002) 128 Cal. Rptr. 2d 12.

⁴ The proposed regulations can be found at <http://www.indianaffairs.gov/cs/groups/public/documents/text/idc1-029629.pdf>

The proposed regulations, as drafted, do not reflect the changes adopted in the new Guidelines and proposed federal regulations. To ensure compliance with the letter and spirit of federal and state ICWA law, we urge that the regulations be amended in a number of areas to ensure that they are consistent with the Guidelines and proposed regulations.

In particular, we recommend the following revisions:

- the provisions in section 31-001 .33 dealing with the “best interest the child” as it relates to an Indian child be revised to be consistent with the Guidelines and specifically sections C.3 (c) and F.4 (c)(3);
- the definition of “active efforts” in section 31-002 be revised to be consistent with section A.2 of the Guidelines;
- the definition of “Indian child’s parent” in section 31-002 be revised to be consistent with the definition of “parent” in section A. 3 of the Guidelines;
- the definition of “Qualified expert witness” in section 31-002 be revised to be consistent with Guideline D.4;
- regulation 31-110 .32 be revised to require ICWA inquiry even when removal is not contemplated consistent with Guideline A.3 (c), which states that child welfare agencies must ask about a child’s Indian status “...Even in those cases in which the child is not removed from the home, such as when an agency opens an investigation or the court orders the family to engage in services to keep the child in the home as part of a diversion, differential, alternative response or other program....”.
- regulation 31-115 .2 be revised to require that if a removal is effectuated prior to contacting a tribe, contact must be made as soon as possible thereafter;
- revise regulation 31-125 .223 (a) to be consistent with Guideline B.2 (c) concerning when there is reason to believe a child may be an Indian child;
- revise regulation 31-125 .7 to be consistent with Guideline A.3 (c) to reflect that the agency should seek verification from a tribe at an early stage prior to formal notice of a hearing;

In terms of consistency with state law, we recommend:

- regulation 31-075 .3 (c) concerning documentation of initial inquiry be revised to include reference to Judicial Council⁵ form ICWA-020 *Parental Notification of Indian Status* in addition to the ICWA-010(A) *Indian Child Inquiry Attachment*. Rule 5.481(a)⁶ requires both forms in each case when a party is seeking a foster care placement of a child;

⁵ All subsequent references to forms refer to Judicial Council forms.

⁶ All references to rules are to California Rules of Court

- revise regulation 31-075 .3 (d) to provide that copies of form ICWA-30 *Notice of Child Custody Proceeding for Indian Child* must be provided to “... the Indian child’s tribe and the Secretary of the Interior” rather than or the Secretary of the Interior;
- revise regulation 31-075 .3 (f) to require that the documentation of active efforts taken to comply with the ICWA placement preferences be included in court reports. This information and supporting evidence are required by the court;
- revise regulation 31-075 .3 (z) to require that the documentation of discussions with an Indian child’s tribe concerning concurrent planning including discussion of the potential for tribal customary adoption be included in court reports. This information and supporting evidence are required by the court;
- revise regulation 31-101 .512 to include reference to an Indian child’s extended family and individual Indian caregiver consistent with Welfare and Institutions Code section 361.7 (b), which requires that active efforts include extended family and individual Indian caregiver in addition to the tribe and Indian service providers;
- revise regulation 31-125 .223 to require that the social worker have the parents form ICWA-020 *Parental Notification of Indian Status*;
- revise the notation following 31-125 .223 (4) to identify form ICWA-020 *Parental Notification of Indian Status*, which is also required for ICWA inquiry documentation under rule 5.481;
- revise regulation 31.125 .6 to reflect that, per rule 5.481, form ICWA-020 *Parental Notification of Indian Status* must be completed as part of initial inquiry in every child welfare case, not only when the social worker knows or has reason to know the child is or may be an Indian child;
- revise regulation 31.125 .731 and 31-125 .761 to require that, if any information requested by the ICWA-030 is not available, the social worker must explain in the court report why the information is missing and what efforts were made to obtain that information sufficient to comply with the requirements of Welfare and Institutions Code section 224.3 (c);
- revise regulation 31-125 .75 to clarify that notice must be by registered or certified mail, and that the notice must be sent far enough in advance that it will be received at least 10 days before the hearing date;
- revise regulation 31-135 .233 to require that the social worker must document all active efforts in the court report;

- revise regulation 31-135 .234 to require that, when the social worker becomes aware that the child may already be the ward of a tribal court or subject to the exclusive jurisdiction of a tribe and a petition has been filed in state court, the social worker must advise the state court of the facts that suggest the child may be a ward of a tribal court or subject to the exclusive jurisdiction of the tribe;
- revise regulation 31-206 .311 to require that the social worker include in the court report information concerning all efforts made to find a placement within the order of preference required by ICWA, the position of the Indian child's tribe on the placement, and what facts, if any, provide good cause to deviate from the ICWA placement preferences;
- revise regulation 31.405 .165 to clarify that it is the court, and not the social worker, that determines whether there is good cause to deviate from the ICWA placement preferences and that the social worker must provide in the court report the facts and supporting evidence that would justify deviation from the placement preferences;
- revise regulation 31.410 .31 to specify that the social worker must make active efforts to comply with the ICWA placement preferences when making a temporary placement; and
- revise regulation 31-420 .333 to clarify that it is the court, and not the social worker, that determines whether there is good cause to deviate from the ICWA placement preferences. The social worker must provide the court with the facts and supporting evidence that justify the request to deviate from the placement preferences and must ask the court for a finding that there is good cause to deviate from the ICWA placement preferences.

Appendix
Draft Sections of Amended Division 31 Regulations and
Relevant Bureau of Indian Affairs (BIA) Guidelines and Relevant State Law

The forum's proposed comments to the following draft regulations are intended to make them consistent with the BIA Guidelines.

Proposed Regulation 31-001 General

**DRAFT DIVISION 31 REGULATION AMENDMENTS
TO CLARIFY ICWA REQUIREMENTS**

Amend Section 31-001 to read:

31-001 GENERAL

31-001

- .1 The requirements specified in Sections 31-005 through 31-525 shall be met by the county in the administration of child welfare services.
- .2 The requirements specified in Section 31-001 through Section 31-525 shall be met by county probation departments when placing children in out-of-home care.
- .3 The following special provisions shall also apply:
 - .31 (Continued)
 - .32 Provision of services to an Indian child shall be subject to the additional requirements specified in Section 31-515 and 31-520 integrated throughout Division 31 Chapters 31-000 through 31-500.
 - .33 When considering the "best interest of the child" social workers must adhere to Welfare and Institutions Code section 224(a)(2), which specifies that it is in the best interest of an Indian child that connection to its tribe and tribal community is encouraged and protected regardless of whether the child is in the physical custody of the Indian parent or Indian custodian(s) at the commencement of a child custody proceeding, the parental rights of the child's parents have been terminated or where the child has resided or been domiciled.

BIA Guidelines

C.3. How is a determination of "good cause" made?

(c) In determining whether good cause exists, the court may not consider whether the case is at an advanced stage or whether transfer would result in a change in the placement of the child because the Act created concurrent, but presumptively, tribal jurisdiction over proceedings involving children not residing or domiciled on the reservation, and seeks to protect, not only the rights of the Indian child as an Indian, but the rights of Indian communities and tribes in

retaining Indian children. Thus, **whenever a parent or tribe seeks to transfer the case it is presumptively in the best interest of the Indian child, consistent with the Act**, to transfer the case to the jurisdiction of the Indian tribe. (emphasis added)

F.4. How is a determination for “good cause” to depart from the placement preferences made?

(c) A determination of good cause to depart from the placement preferences must be based on one or more of the following considerations:

(3) The extraordinary physical or emotional needs of the child, such as specialized treatment services that may be unavailable in the community where families who meet the criteria live, as established by testimony of a qualified expert witness; provided that extraordinary physical or emotional needs of the child does not include ordinary bonding or attachment that may have occurred as a result of a placement or the fact that the child has, for an extended amount of time, been in another placement that does not comply with the Act. The good cause determination does not include an independent consideration of **the best interest of the Indian child because the preferences reflect the best interests of an Indian child in light of the purposes of the Act**. (emphasis added)

Proposed Regulation 31-002 Definitions

Amend Section 31-002 to read:

31-002 DEFINITIONS

31-002

(a) (1) "Active efforts" means, in the case of an Indian child, all actions taken by a county to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe, utilizes the available resources of the child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers, as further specified in Section 31-135.23 and Section 31-420.3 with respect to the active efforts to comply with ICWA placement preferences.

BIA Guideline

A.2. What terms do I need to know?

“Active efforts” are intended primarily to maintain and reunite an Indian child with his or her family or tribal community and constitute more than reasonable efforts as required by Title IV–E of the Social Security Act (42 U.S.C. 671(a)(15)). Active efforts include, for example:

- (1) Engaging the Indian child, the Indian child's parents, the Indian child's extended family members, and the Indian child's custodian(s);
- (2) Taking steps necessary to keep siblings together;
- (3) Identifying appropriate services and helping the parents to overcome barriers, including actively assisting the parents in obtaining such services;
- (4) Identifying, notifying, and inviting representatives of the Indian child's tribe to participate;
- (5) Conducting or causing to be conducted a diligent search for the Indian child's extended family members for assistance and possible placement;
- (6) Taking into account the Indian child's tribe's prevailing social and cultural conditions and way of life, and requesting the assistance of representatives designated by the Indian child's tribe with substantial knowledge of the prevailing social and cultural standards;
- (7) Offering and employing all available and culturally appropriate family preservation strategies;
- (8) Completing a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal;
- (9) Notifying and consulting with extended family members of the Indian child to provide family structure and support for the Indian child, to assure cultural connections, and to serve as placement resources for the Indian child;
- (10) Making arrangements to provide family interaction in the most natural setting that can ensure the Indian child's safety during any necessary removal;
- (11) Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parents or extended family in utilizing and accessing those resources;
- (12) Monitoring progress and participation in services;
- (13) Providing consideration of alternative ways of addressing the needs of the Indian child's parents and extended family, if services do not exist or if existing services are not available;
- (14) Supporting regular visits and trial home visits of the Indian child during any period of removal, consistent with the need to ensure the safety of the child; and
- (15) Providing post-reunification services and monitoring. "Active efforts" are separate and distinct from requirements of the Adoption and Safe Families Act (ASFA), 42 U.S.C. 1305. ASFA's exceptions to reunification efforts do not apply to ICWA proceedings.

Proposed Regulation 31-002 Definitions (i)(3)(C)

(C) "Indian child's parent" means any biological parent or parents of an Indian child; or any Indian person who has lawfully adopted an Indian child; including ~~Lawful adoptions include adoptions under tribal law or custom.~~ The term does not include the unwed father ~~when~~ where paternity has not been acknowledged or established.

BIA Guidelines

A.2. What terms do I need to know?

“Parent” means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unwed father where paternity has not been acknowledged or established. **To qualify as a parent, an unwed father need only take reasonable steps to establish or acknowledge paternity. Such steps may include acknowledging paternity in the action at issue or establishing paternity through DNA testing.** (emphasis added)

Proposed Regulation 31-002 Definitions

(9) (Continued)

- (q) ~~Reserved~~ (1) "Qualified expert witness" means a person required to testify in an Indian child custody proceeding on whether continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. A qualified expert witness may include, but is not limited to, a social worker, sociologist, physician, psychologist, traditional tribal therapist and healer, tribal spiritual leader, tribal historian, or tribal elder, provided the individual is not an employee of the person or agency recommending foster care placement or termination of parental rights.

BIA Guideline

D.4. Who may serve as a qualified expert witness?

(a) A qualified expert witness should have specific knowledge of the Indian tribe's culture and customs.

(b) Persons with the following characteristics, in descending order, are presumed to meet the requirements for a qualified expert witness:

- (1) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and childrearing practices.
- (2) A member of another tribe who is recognized to be a qualified expert witness by the Indian child's tribe based on their knowledge of the delivery of child and family services to Indians and the Indian child's tribe.
- (3) A layperson who is recognized by the Indian child's tribe as having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe.
- (4) A professional person having substantial education and experience in the area of his or her specialty who can demonstrate knowledge of the prevailing social and cultural standards and childrearing practices within the Indian child's tribe.

(c) The court or any party may request the assistance of the Indian child's tribe or the Bureau of Indian Affairs agency serving the Indian child's tribe in locating persons qualified to serve as expert witnesses. (emphasis added)

Proposed Regulation 31-110 In-Person Investigations

31-110	IN-PERSON INVESTIGATIONS	31-110
.1	(Continued)	
.2	If the social worker determines that an in-person investigation is not necessary, but that the services of another community agency are appropriate, the social worker shall refer the reporter or child and family to that agency. <u>In the case of an Indian child the social worker is authorized to refer the family to culturally appropriate services such as those available through the child's tribe, an Indian organization or other Indian service providers, etc.</u>	
.21	(Continued)	
.3	If the social worker determines that an in-person investigation is necessary, the social worker shall make the in-person investigation immediately or within 10 calendar days, as appropriate.	
.31	<u>If it is known, or there is reason to know, that the referral involves an Indian child that resides or is domiciled on an Indian reservation, Rancheria, or in an Indian community, the social worker shall contact the designated representative of the child's tribe so that active efforts to prevent the breakup of the Indian family can be commenced and coordinated.</u>	
.32	<u>Prior to temporary removal from the home where it is determined that such removal is necessary the social worker shall ask whether the child is or maybe an Indian.</u>	
<u>HANDBOOK BEGINS HERE</u>		
<u>Initial inquiry regarding Indian heritage is vital to beginning contact with the child's family and tribe, and complies with ICWA requirements to engage in active efforts to prevent the breakup of the Indian family. Further, asking such questions enables documentation of the worker's and county agency's attempts to collaborate with the tribe in early intervention and prevention of removal of the child from its community.</u>		

BIA Guidelines

A.3. When does ICWA apply?

(c) Agencies and State courts, in every child custody proceeding, must ask whether the child is or could be an Indian child and conduct an investigation into whether the child is an Indian child.

Even in those cases in which the child is not removed from the home, such as when an agency opens an investigation or the court orders the family to engage in services to keep the child in the home as part of a diversion, differential, alternative response or other program, agencies and courts should follow the verification and notice provisions of these guidelines. Providing notice allows tribes to intervene as early as possible in a child custody

proceeding and provides an opportunity for the tribe to bring resources to bear to assist the family in preventing a breakup of the family. (emphasis added)

Proposed Regulation 31-115 In-Person Immediate Investigation

31-115 IN - PERSON IMMEDIATE INVESTIGATION

31-115

- .1 The social worker shall conduct an in-person immediate investigation when:
 - .11 The emergency response protocol indicates the existence of a situation in which imminent danger to a child, such as physical pain, injury, disability, severe emotional harm or death, is likely.
 - .12 The law enforcement agency making the referral states that the child is at immediate risk of abuse, neglect or exploitation.
 - .13 The social worker determines that the child referred by a law enforcement agency is at immediate risk of abuse, neglect, or exploitation.
- .2 Prior to removal from the home, the social worker shall inquire whether the child is or may be an Indian child. If it is known, or there is reason to know that the referral involves an Indian child, the social worker shall contact the designated representative of the child's tribe, so that active efforts to prevent the breakup of the Indian family can be commenced and coordinated, unless there is imminent danger to the child and an in-person immediate removal is required.

HANDBOOK BEGINS HERE

When a social worker is considering removal and making a foster care placement of an Indian child, the ICWA requires that they engage in active efforts to provide remedial, rehabilitative services to prevent the breakup of the Indian family. Such active efforts can include, but are not limited to contacting any known collaterals, family members, or known local tribes, Indian organizations, or other Indian service providers that can assist in providing support to the family.

Commented [WJ1]: Is there a relevant BIA Guideline to this section?

Commented [WJ2]: Is there a relevant BIA guideline to reference to this section?

Proposed Regulation 31-125 Investigation Requirements

31-125	INVESTIGATION REQUIREMENTS	31-125
.2	(Continued)	
.22	If as a result of the investigation the social worker does not find the referral to be unfounded, the social worker shall:	
.221	(Continued)	
.222	<u>Make necessary collateral contacts with each persons having knowledge of the condition of the children each child that is the subject of an allegation, including tribes, Indian organizations, or other Indian service providers when the child is or may be Indian.</u>	
.223	<u>In all cases the social workers shall inquire of the child, if the child is old enough, the child's parent(s), legal guardian(s), or the child's Indian custodian, whether the child is or may be an Indian child and complete the Judicial Council Indian Child Inquiry Attachment form ICWA-010(A). Social workers have an affirmative and continuing duty to inquire about a child's Indian status.</u>	
(a)	<u>Circumstances that may give rise to a further duty to inquire include, but are not limited to, the following:</u>	
(1)	<u>Information is provided by the child, parent or Indian custodian, an officer of the court, a tribe, an Indian organization, a public or private agency, or an extended family member suggesting the child may be Indian.</u>	
(2)	<u>Information is provided that one or more of the child's biological parent(s), grandparent(s), or great-grandparent(s) are or were a member of a tribe.</u>	
(3)	<u>The residence or domicile of the child, or the child's parent(s), guardian(s), or Indian custodian(s) is in a predominantly Indian community; or</u>	
(4)	<u>The child or the child's family has received services or benefits available to Indians from a tribe or from the federal government, such as Indian Health Services.</u>	

New Guideline

B.2. What actions must an agency and State court undertake in order to determine whether a child is an Indian child?

(c) An agency or court has reason to believe that a child involved in a child custody proceeding is an Indian child if:

(1) Any party to the proceeding, Indian tribe, Indian organization or public or private agency informs the agency or court that the child is an Indian child;

- (2) Any agency involved in child protection services or family support has discovered information suggesting that the child is an Indian child;
- (3) The child who is the subject of the proceeding gives the agency or court reason to believe he or she is an Indian child;
- (4) The domicile or residence of the child, parents, or the Indian custodian is known by the agency or court to be, or is shown to be, on an Indian reservation or in a predominantly Indian community; or
- (5) An employee of the agency or officer of the court involved in the proceeding has knowledge that the child may be an Indian child.

Proposed Regulation 31-125 Investigation Requirements

Commented [WJ3]: Is this the relevant section of the handbook re this specific reg?

HANDBOOK ENDS HERE

- .7 If, as a result of the inquiry required in Section 31-125.223, the social worker knows or has reason to know that the child is or may be an Indian child and a dependency petition is filed, notice of the proceeding(s) shall be sent to the child's parent, guardian, or Indian custodian, if any, and the tribe or tribes with whom the child is a member or eligible for membership or potential affiliation.
- .71 Notice shall be sent by registered or certified mail with return receipt requested. Additional notice by first-class mail is recommended but not required. However, this could help support active efforts.
- .72 Notice to a tribe shall be sent to its tribal chairperson unless the tribe has designated another tribal agent that is included and published on the Department of the Interior, Bureau of Indian Affairs (BIAs) list of "Indian Child Welfare Act Designated Tribal Agents for Service of Notice." If an agent has been designated by a tribe, it is mandatory that the notice be sent to the agent.

New BIA Guideline

A.3. When does ICWA apply?

(c) Agencies and State courts, in every child custody proceeding, must ask whether the child is or could be an Indian child and conduct an investigation into whether the child is an Indian child. Even in those cases in which the child is not removed from the home, such as **when an agency opens an investigation** or the court orders the family to engage in services to keep the child in the home as part of a diversion, differential, alternative response or other program, agencies and courts **should follow the verification and notice provisions of these guidelines**. Providing notice allows tribes to intervene as early as possible in a child custody proceeding and provides an opportunity for the tribe to bring resources to bear to assist the family in preventing a breakup of the family. (emphasis added)

The forum's proposed comments to the following draft regulations are intended to make them consistent with state law. The relevant state law provisions are cited to in the forum's draft comments.

31-075 – CASE RECORDS DOCUMENTATION / INDIAN CHILD

- .3 Each record shall contain at least the following information:
 - (a) A face sheet with identification information regarding the child; family; Indian ancestry, tribal membership or eligibility for tribal membership; and the placement services provider, if any.
 - (d) Copies of each Notice of Child Custody Proceeding for Indian Child (ICWA-030) must be sent to an Indian child's parent(s) or Indian custodian, if any, and the Indian child's tribe or the Secretary of the Interior. The case record shall include the registered or certified mail return receipt and each response, including documentation of all verbal communications, such as notes of conversations or meetings with tribal representatives, parent(s), guardian(s), or Indian custodian(s).
 - (f) In the case of an Indian child, documentation of the active efforts taken to comply with the ICWA placement preferences as described in Section 31-420.3 and whether these efforts proved unsuccessful at placing the Indian child according to ICWA placement preferences.
- (~~v~~)(z) Documentation of the review and the results of the child's potential for adoption, which shall specify why a child who is not reunified with his/her family is not appropriate for adoption as defined in Welfare and Institutions Code Sections 366.26(c)(1)(A) through (D). In the case of an Indian child, documentation shall also include the review results and documentation of concurrent planning including the solicitation of input from, and the results of discussions, with the Indian child's tribe regarding the potential for Tribal Customary Adoption as a permanency option for the Indian child.

31-101 GENERAL

31-101

- .1 The county shall respond to all referrals for service which allege that a child is endangered by abuse, neglect, or exploitation.
 - .11 On all referrals, the county shall inquire whether the child is an Indian child and shall identify and document each response.
 - ~~.12~~ (Continued)
- .2 (Continued)
- .5 Within 30 calendar days of the initial removal of the child or the in-person investigation, or by the date of the dispositional hearing, whichever comes first, the social worker shall:
 - .51 Determine whether child welfare services are necessary and:
 - .511 (Continued)
 - .512 In the case of an Indian child, if child welfare services are necessary, prepare, complete and implement the case plan in collaboration with the Indian child's tribe, or Indian service providers in accordance with the time frames and schedules specified in Chapter 31-210.

31-125 INVESTIGATION REQUIREMENTS

31-125

- .2 (Continued)
 - .22 If as a result of the investigation the social worker does not find the referral to be unfounded, the social worker shall:
 - .221 (Continued)
 - .222 Make necessary collateral contacts with each persons having knowledge of the condition of ~~the children~~ each child that is the subject of an allegation, including tribes, Indian organizations, or other Indian service providers when the child is or may be Indian.
 - .223 In all cases the social workers shall inquire of the child, if the child is old enough, the child's parent(s), legal guardian(s), or the child's Indian custodian, whether the child is or may be an Indian child and complete the Judicial Council Indian Child Inquiry Attachment form ICWA-010(A). Social workers have an affirmative and continuing duty to inquire about a child's Indian status.

HANDBOOK BEGINS HERE

California Rules of Court, rule 5.481(a)(1) requires completion of the ICWA-010(A) for inquiry documentation. ICWA forms are available on the Judicial Council's website at <http://www.courts.ca.gov>.

- .6 If as a result of the inquiry required in Section 31-125.223 the social worker knows or has reason to know that the child is or may be an Indian child, and a dependency petition is filed, the social worker shall provide a copy of and explain the Parental Notification of Indian Status form (ICWA-020) to the parent(s), Indian custodian or guardian, if any, and ask that the form be completed.

HANDBOOK BEGINS HERE

California Rule of Court, rule 5.481(a)(2) requires completion of the ICWA-020. Pursuant to this rule, the court may also order the county to use reasonable diligence to locate and ask a parent, Indian custodian, or guardian to complete the form if the parent, Indian custodian, or guardian does not personally appear at a hearing. ICWA forms are available on the Judicial Council's website at <http://www.courts.ca.gov>.

HANDBOOK ENDS HERE

- .731 Notice shall be sent using the *Notice of Child Custody Proceeding for Indian Child* (form ICWA-030).

HANDBOOK ENDS HERE

- .76 If at the time of the dependency court appearance, no determination of tribal standing is made by the tribe or there has been no response from the tribe regarding the child's status as an Indian child, as defined by the ICWA, the social worker shall:
- .761 Advise the court of all information which indicates that the child may be an Indian child.
- .75 Notice must be sent in a manner to ensure an Indian child's parent or legal guardian or Indian custodian, if any, and the tribe receive the notice at least 10 days prior to the hearing date. Upon request an additional 20 days will be granted. Notice prior to detention hearing must be sent as soon as possible after the filing of a petition and proof of notice filed within 10 days after filing the petition.

31-135 AUTHORITY FOR REMOVAL OF A CHILD

.233 The social worker shall document in the Indian child's case files the active efforts to prevent the removal of the child. If the determination is to remove the child, the social worker must document that the active efforts proved unsuccessful and the reasons why.

.234 When it comes to the attention of the social worker that an Indian child who has been removed from the custody of his or her parent(s), or Indian custodian(s), is already a ward of the child's tribe or subject to the exclusive jurisdiction of the child's tribe, the social worker shall notify the tribe of the removal, pursuant to Welfare and Institutions Code section 305.5(a), no later than the next working day following the removal. The social worker shall do the following:

- (a) Notify the child's tribe in writing that the child has been taken into protective custody, that a petition pursuant to Welfare and Institutions Code section 313 is pending or has been filed, and that the county has reason to believe the child is a ward of the tribe or subject to the tribe's exclusive jurisdiction. The notice shall:
 - (1) Provide the child's name, date of birth, name of parent or Indian custodian, and the date of removal.
 - (2) Request that the tribe confirm if the child is a ward of its tribal court or under its exclusive jurisdiction.
 - (3) Inform the tribe that upon receipt of written confirmation that the child is a ward or under the tribe's exclusive jurisdiction, a request shall be made to the juvenile court for an order to transfer the child custody proceeding to the tribe pursuant to Welfare and Institutions Code sections 381 and 305.5.
 - (4) Inform the tribe that additional information regarding the circumstances that created the reason for the removal of the child may be requested by the tribe, along with information necessary to confirm the child's status with the tribe.
- (b) The notice shall be sent via facsimile or secure mail addressed to the tribal chair or the ICWA designated agent for service. If communication by secure email or facsimile is not available, then notice shall be sent via overnight delivery. In addition, contact with the tribe shall be made by telephone to inform the tribe of the child's removal.

31-206 CASE PLAN DOCUMENTATION

- .311 In the case of an Indian child, if an out-of-home placement is not made consistent with the placement preference standards specified in Section 31-420.3 the social worker shall document what active efforts were made to place the child in accord with the ICWA placement preferences and reasons why this did not occur.
- .312 The prevailing social and cultural standards of the Indian community in which the parent or extended family members reside or maintain social and cultural ties, or the prevailing social and cultural standards of the Indian child's tribe shall be applied.
- (a) Whether preference shall be given to the child's placement with one of the placement preferences defined in ICWA at 25 U.S.C. 1912(e). The ICWA placement preferences can be found at the following link: <http://www.childsworld.dss.ca.gov/>
- (b) Whether Tribal placement preferences were followed as required by the ICWA at 25 U.S.C. 1912(e), and if not, documentation that there was good cause to deviate, as specified in ICWA.

31-405 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT

- .165 Absent good cause to the contrary, the social worker must follow the ICWA placement preferences, which include the Tribally Approved or Tribally Specified Home designated by the child's tribe.

31-410 TEMPORARY PLACEMENT

31-410

- .1 Temporary placement services shall consist of emergency shelter care and out-of-home respite care.
 - .2 Temporary placement services shall be provided when the social worker has considered and/or used in-home services and has determined that the provision or continued provision of these services will not safely maintain the child in his/her own home.
 - .3 For temporary placement services involving an Indian child, the social worker shall, to the extent possible, collaborate with the child's tribe in an attempt to prevent the removal of the child and to solicit tribal assistance and support in the placement of the child.
- .31 When selecting a temporary placement for an Indian child, the social worker shall, to the extent possible, adhere to the ICWA placement preference order required in Section 31-420.3.

31-420 FOSTER CARE PLACEMENT

- .332 A tribe may establish a different preference order which must be followed so long as the placement is in the least restrictive setting appropriate to the particular needs of the child.
- .333 Deviation from the preference order may occur only with good cause, which may include but not necessarily be limited to the following:
- (a) The request of the parent or Indian custodian;
 - (b) The request of the Indian child, when of sufficient age;
 - (c) The extraordinary physical or emotional needs of the Indian child as established by a qualified expert witness; or
 - (d) The unavailability of suitable families based on documented active efforts to identify families meeting the preference criteria.



BEYOND THE BENCH | 23

WORKSHOP FORM - DEADLINE: AUGUST 21, 2015

Staff to complete below:

Workshop Title:

Brief Description:

Learning Objectives:

CEUs: APA BBS STC Interpreter

Rules of Court _____ Judicial Officer

- MCLE
- Legal Ethics
 - Bias

List presenters in this workshop (please limit to 3 presenters):



BEYOND THE BENCH | 23

WORKSHOP FORM - DEADLINE: AUGUST 21, 2015

Staff to complete below:

Workshop Title:

ICWA Hot Topics - New Bureau of Indian Affairs Guidelines and Regulations; CA Supreme Court Cases, and more

Brief Description:

This is a time of rapid change in the Indian Child Welfare Act. In 2015 the Bureau of Indian Affairs issued new Guidelines for ICWA for the first time in 36 years. In addition the Bureau is proposing new federal ICWA regulations. The California Supreme Court has taken up several important ICWA cases addressing obligations of inquiry and application of ICWA. In this session an expert will give you an overview of all of these developments and their implications for ICWA practice in California.

Learning Objectives:

Participants will understand and recognize recent changes in BIA Guidelines, proposed BIA regulations and California case law governing the Indian Child Welfare Act; Participants will apply the principles of BIA Guidelines and California case law cases to hypothetical Indian Child Welfare Act situations in California; and Participants will identify differences between the the BIA ICWA Guidelines, proposed BIA regulations and California case law and current Indian Child Welfare act practice in California.

CEUs: APA BBS STC Interpreter

Rules of Court _____ Judicial Officer

MCLE
 Legal Ethics
 Bias

List presenters in this workshop (please limit to 3 presenters):

Delia Parr, Directing Attorney, California Indian Legal Services,
Joann Kitze or Amber Blaha (invited from U.S. DOJ)



BEYOND THE BENCH | 23

WORKSHOP FORM - DEADLINE: AUGUST 21, 2015

Staff to complete below:

Workshop Title:

Collaboration and Best Practice with ICWA-A presentation of innovative solutions throughout the state that have been implemented to address the challenges by bridging justice gaps and bringing communities together to create change.

Brief Description:

The workshop is intended to highlight the common areas of challenges or barriers that tribal communities and partner agencies encounter when working together in many facets of ICWA. The presenters will also present models of best practice in relation to training, communication, outreach and describe various collaborations throughout the state that have promoted positive relations between tribal communities and partner agencies.

Learning Objectives:

- The participant will understand the importance of working with Native American families in a culturally respectful manner, while also recognizing how their own cultural background and perception of Native American families may aid or hinder their current everyday practice;
- The participant will understand the challenges and barriers to justice tribal communities have endured;
- The participant will learn skills in applying a government to government approach when working with tribal nations;
- The participant will understand the long-lasting connection between Indian people and their tribes, culture and communities, and the historical, statutory and case law framework enforcing the rights of the child and the tribe to identifying and appropriately maintaining that inherent connection;
- The participant will value the role of the court process, laws and cultural sensitivity when working with Native Americans;
- The participant will value collaboration with tribal service providers, tribal families, tribal representatives, child welfare, attorneys, and judges to better meet the best interest of Native American families.

CEUs: APA BBS STC Interpreter

Rules of Court _____ TBD



- MCLE
- Legal Ethics
- Bias

List other presenters in this workshop (please limit to 3 presenters):

Liz Elgin DeRouen, Indian Child & Family Preservation Program (Invited)
 Paulie Hawthorne, Tribal Social Worker/ICWA Advocate, Smith River Rancheria Social Services (Confirmed)
 Tom Lidot, (Tlingit) Tribal STAR (Confirmed)
 Scott Stevens, California Department of Social Services (Confirmed)
 Dorothy Wait, Director, Smith River Rancheria Social Services (Confirmed)

Presenter to complete below

1. Prefix Hon. Dr. Mr. Ms.

2. Contact Information

Last Name, First Name	
Job Title	
Organization	
Address	
City/State/Zip	
Email Address (is the default to social media)	
Phone	
Cell Phone (optional)	

Please provide a brief bio with 1/2 page or less.

Each room will be set up with podium, handheld mic, LCD & PC Laptop.

- Special A/V request: _____

Optional

- 3. Attach picture
- 4. Provide a link to any on-line presentation
- 5. Link to social media (e.g., Facebook, Twitter, LinkedIn)

What if I do not see the type of local educational or technical assistance my court needs?

- ◆ Any assistance focusing on tribal-state-county collaboration—At the request of judges, Tribal/State Programs Unit staff will tailor an educational event to meet local educational needs or provide technical assistance in response to locally identified and targeted needs.

How to learn about local tribal courts and state courts?

To learn if there's a tribal court in your county, please visit the California Tribal Courts Directory (www.courts.ca.gov/14400.htm) or the tribal jurisdictions map (<http://g.co/maps/cvdq8>).

To learn about the local state court in your county, please visit Find My Court www.courts.ca.gov/find-my-court.htm.

What steps can judges take to improve safety for Native victims?

- ◆ Directly communicate with each other and identify issues of mutual concern.
- ◆ Invite each other to observe court proceedings.
- ◆ Invite each other to participate in justice system meetings or work with each other's justice partners.
- ◆ Learn about each other's courts and procedures.
- ◆ Jointly conduct local or regional trainings.
- ◆ Understand the unique historical trauma responses of Native Americans.

FOR MORE INFORMATION

The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts assists the state judicial branch with the development of policies, positions, and programs to promote the highest quality of justice and service for California's Native American communities in all case types. The unit also implements tribal-state programs that improve the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps. To learn more about the Tribal/State Programs Unit or for assistance, call Jennifer Walter at 415-865-7687 or visit www.courts.ca.gov/programs-tribal.htm.

This project is supported with funds from the Office on Violence Against Women, U.S. Department of Justice that are administered through the Governor's Office of Emergency Services (Cal OES).

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Center for Families, Children & the Courts
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S.T.E.P.S. TO JUSTICE— DOMESTIC VIOLENCE

State/Tribal Education,
Partnerships, and
Services—Information for
Tribal Court and
State Court Judges

November 2014



JUDICIAL COUNCIL
OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

This project sets aside funds to provide local educational and technical assistance to tribal and state courts on issues relating to domestic violence.

What is the extent of the problem of domestic violence?

Domestic violence is a particularly troubling issue in Native American communities.

- ◆ 39% of American Indian women report some form of intimate partner violence in their lifetimes, higher than the rate reported by any other race or ethnic group.
- ◆ American Indian victims of intimate and family violence are more likely than victims of other racial groups to be seriously injured and require hospital care.
- ◆ Among American Indian victims of violence, 75% of intimate victimizations and 25% of family victimizations involve an offender of a different race.

For detailed statistics and citations, www.courts.ca.gov/documents/Tribal-NAmericanStatsAbstract.pdf.

What type of local educational assistance is offered?

- ◆ **Faculty**—Identify faculty or pay for travel or other faculty costs.
- ◆ **Facilitator**—Obtain a facilitator for a training or meeting, which brings together tribal and non-tribal representatives.
- ◆ **Educational Materials**—Gather, copy, or develop educational materials.
- ◆ **Educational Curriculum**—Use or tailor our curriculum (i.e., P.L. 280, tribal advocates, Comings and Goings etc.).
- ◆ **Train-the-Trainers**—Train local experts.
- ◆ **Educational Training or Workshop**—Develop a program—brown bag, workshop, or full-day training.

- ◆ **Judge-to-Judge or Court-to-Court**—Structured opportunities for connecting tribal and state court judges or court administrators so that they can learn from each other (e.g., court observations, participation in justice system meetings, sharing information on court operations and procedures).
- ◆ **Cross-Court Educational Exchange**—Convene an educational exchange to learn about each other's courts, share resources, identify local court concerns, and implement local and statewide solutions.
- ◆ **Coordinated Court-Community Responses**—Assistance with tribal/state/county engagement (e.g., help with engaging participation at a domestic violence coordinating council, task force, or other system meeting).

What type of technical assistance is available to support tribal capacity-building?

- ◆ **Judicial Council Forms**—Accessing state judicial branch forms so that they may be used as a basis for creating tribal court forms.
- ◆ **California Courts Protective Order Registry**—Accessing this registry and receiving training on how to use it. Through this dedicated online database, state courts and tribal courts can view each other's protective orders. The courts that have access are better able to protect the public, particularly victims of domestic violence, and avoid issuing redundant or conflicting orders. Learn more at www.courts.ca.gov/15574.htm.

- ◆ **Registering Tribal Protective Orders**—Assistance developing a local protocol or rule to implement California Rules of Court, rule 5.386, which requires state courts, at the request of a tribal court, to adopt a written procedure or local rule permitting the fax or electronic filing of any tribal court protective order that is entitled to be registered under Family Code section 6404. Learn more about the new rule at www.courts.ca.gov/documents/SPR11-53.pdf.
- ◆ **Online Resources**
 - Court Extranet:** This website contains information relevant to all levels of judicial branch personnel and includes resources designed to meet education, facilities, financial, human resources, legal, special court projects, technology, and other informational needs. It also offers both current news and archived resources.
 - CJER Online:** This website contains educational and other resources for state court judges and tribal court judges. It offers a calendar listing judicial institutes.
 - Dependency Online Guide:** This website contains dependency-related case law, legal materials, articles, and other resources.
- ◆ **Attendance at Judicial Institutes**—All state judicial branch educational programs are open to tribal court judges and offer continuing legal educational credit. There may be limited funding for scholarships to pay for travel expenses.
- ◆ **Security**—Consultation on court security.
- ◆ **Human Resources**—Consultation on court human resource questions.
- ◆ **Letters of Support for Domestic Violence Grant Applications.**

Looking for services for Native American children and families?

www.courts.ca.gov/5807.htm

What steps can judges take to improve child welfare outcomes for Native children and families?

- ◆ Regularly collect and track data on these cases.
- ◆ Ongoing and meaningful collaboration among courts, child welfare agencies, and tribes
- ◆ Ongoing education for all court system participants
- ◆ Organize court operations and personnel to reflect the specialized knowledge needed and lessons learned from data collection

These steps are based on the Pew Commission recommendations and Court Reform and American Indian and Alaskan Native Children, see www.ncjfcj.org/resource-library/publications/court-reform-and-american-indian-and-alaskan-native-children

What if I do not see the type of service my court needs?

Contact us because we will tailor our services to meet your court's needs.

FOR MORE INFORMATION

The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts assists the state judicial branch with the development of policies, positions, and programs to promote the highest quality of justice and service for California's Native American communities in all case types. The unit also implements tribal-state programs that improve the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps. To learn more about the Tribal/State Programs Unit or for assistance, call Jennifer Walter at 415-865-7687 or visit www.courts.ca.gov/programs-tribal.htm.

This project is supported with funds from the California Department of Social Services.

www.courts.ca.gov/3067.htm

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S.T.E.P.S. TO JUSTICE— CHILD WELFARE

State/Tribal Education,
Partnerships, and Services—
Information for Tribal Court
and State Court Judges

March 2015



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JUDICIAL COUNCIL
OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

What is ICWA?

ICWA is a federal law that seeks to keep Native American children within their cultures and communities. Congress passed ICWA in 1978 in response to the alarmingly high number of Indian children being removed from their homes by both public and private agencies. The intent of Congress was to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families” (25 U.S.C. § 1902). ICWA sets minimum federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe.

Why is it relevant today?

Nationally, Native American children still disproportionately enter into foster care. In California, Native American children are overrepresented in the foster care system at a rate of 1.3 to 2.0. That means that, in California, the proportion of Native American children in foster care may be nearly twice as high as the proportion in the general population.

For more information about disproportionality, see www.ncjfcj.org/resource-library/publications/disproportionality-rates-children-color-foster-care-2013-technical


What legal services are offered?

Domestic violence is a particularly troubling issue in Native American communities.

- ◆ Job aids
www.courts.ca.gov/8103.htm
- ◆ Law and regulations
www.courts.ca.gov/8709.htm
- ◆ Qualified expert witnesses
www.courts.ca.gov/8105.htm
- ◆ Distance learning opportunities
www.courts.ca.gov/8075.htm#tab15022
- ◆ Curriculum
www.courts.ca.gov/8075.htm#tab14468
- ◆ Tribal customary adoption
www.courts.ca.gov/12569.htm

What court services are offered?

- ◆ Education on the following topics:
 - When ICWA applies
 - Exclusive versus concurrent jurisdiction
 - Duty of inquiry
 - Determination of tribal membership or eligibility for membership
 - Notice to tribes
 - Tribal participation and intervention
 - Active efforts, including culturally appropriate services
 - Cultural case planning
 - Placement preferences
 - Qualified expert witnesses
 - Historical trauma
- ◆ Tribal engagement
- ◆ Needs assessment
- ◆ Courtesy file review
- ◆ Tribal/State/County collaboration
- ◆ Connecting to Tribal-specific services



Disproportionality Rates for Children of Color in Foster Care
2013 Technical Assistance Bulletin
June 14, 2013

Since 2011, the NCJFCJ has published *Disproportionality Rates for Children of Color in Foster Care Technical Assistance Bulletins*, which identify the disproportionality rates for all state and select Model Courts across the country. The reports have gained national attention and have been used in a number of ways by a broad spectrum of stakeholders and interested parties. Due to the ongoing need...

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