



JUDICIAL COUNCIL  
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

[www.courts.ca.gov/forum.htm](http://www.courts.ca.gov/forum.htm)  
[forum@jud.ca.gov](mailto:forum@jud.ca.gov)

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

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**Date:** October 8, 2015  
**Time:** 12:15–1:15 p.m.  
**Location:** Conference Call  
**Public Call-In Number** 1-877-820-7831 and enter Passcode: 4133250

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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.

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

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**Call to Order and Roll Call**

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

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**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](mailto: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 October 7, 2015 will be provided to advisory body members.

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**III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-8)**

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**Item 1**

**Cochair Report**

- **Welcome New Members and Orientation Materials**  
(Hon. Gail Dekreon, Hon. Michael A. Juhas, Hon. John H. Sugiyama, and Hon. Sunshine Sykes)
- **Discussion on Selection of Tribal Court Judge Cochair to the Forum**
- **Approval of the Meeting Minutes**
- **News on In re Abbigail A., S220187**

The court invites the United States to serve and file an amicus curiae brief in this case on the question whether rules 5.482(c) and 5.484(c)(2) of the California Rules of Court are preempted to the extent those rules purport to require California courts to apply the Indian Child Welfare Act (25 U.S.C. § 1901 et seq.) (ICWA) in child custody proceedings involving a minor who is not an "Indian child" as defined in ICWA. (See 25 U.S.C. § 1903(4); cf. id., §§ 1902 & 1921.) The court requests the brief be filed by October 16, 2015, or any later date specified in a subsequent order granting a request by the United States for an extension of time. The parties may serve and file answer briefs no more than 20 days after the United States' amicus curiae brief is filed.

- **News from Department of Justice/FBI Criminal Justice Information Services (CJIS) Division Tribal Conference in Tulsa, Oklahoma- August 19, 2015**

The Department of Justice is launching an initial phase of the Tribal Access Program for National Crime Information (TAP) to provide federally-recognized tribes access to national crime information databases for both civil and criminal purposes. TAP will allow tribes to more effectively serve and protect their communities by ensuring the exchange of critical data.

**Item 2 (Partnerships)**

**California Department of Justice New Bureau of Children's Justice (ICWA Focus)**

Presenter: Mr. Michael L. Newman, Director, California Department of Justice  
New Bureau of Children's Justice  
Mr. Olin Jones

**Item 3 (Education)**

**[Report on Tribal Wellness Court Enhancement Training](#)**

Presenters: Hon. Christine Williams  
Hon. Suzanne N. Kingsbury  
Ms. Jaqueline Davenport

**Item 4 (Partnerships)**

**Federal Component of the Court Administrator Toolkit**

Presenter: Hon. Edward J. Davila, District Judge, U.S. District Court

**Item 5 (Education)**

**Jurisdictional Tools for Judges and Law Enforcement**

Presenters: Hon. Joseph J. Wiseman  
Ms. Jenny Walter

**Item 6 (Education)**

**Report on Partnership with CJER Governing Board's Curriculum Committees to Make Recommendations to Incorporate Federal Indian Law into CJER Online Judicial Educational Materials (using the forum's Federal Indian Law Toolkit as a starting point)**

Presenter: Hon. David Nelson

**Item 7 (Partnerships)**

**[California Tribal Court Directory Update](#)**

Presenter: Ms.Carolynn Bernabe

Ms. Jenny Walter

**Item 8 (Partnerships)**

**[Native American Day at the Capitol](#)**

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**IV. ADJOURNMENT**

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**Adjourn**

# Welcome and Orientation Information



## 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

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# MEMORANDUM

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**Date**

September 21, 2015

**Action Requested**

Please Review

**To**

Members of the California Tribal Court–State  
Court Forum

**Deadline**

NA

**From**

Hon. Richard C. Blake, Cochair  
Chief Judge of the Hoopa Valley Tribal Court  
Chief Judge of the Smith River Rancheria  
Tribal Court  
Chief Judge of the Redding Rancheria Tribal  
Court

**Contact**

Jennifer Walter, Supervising Attorney  
Center for Families, Children & the Courts  
(CFCC)  
415-865-7687 phone  
415-8657217 fax  
jennifer.walter@jud.ca.gov

Hon. Dennis M. Perluss, Cochair  
Presiding Justice of the Court of Appeal,  
Second Appellate District, Division Seven

**Subject**

Welcome and Orientation Materials

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We are pleased to welcome you as continuing and new members of the California Tribal Court–State Court Forum (forum). We hope the enclosed materials will serve as a review of our accomplishments for continuing members and an orientation to the forum’s work for new members. Because some of the materials were intended to be stand-alone documents, some of the content is repeated.

Please find enclosed the following materials in the left side of your folder: (1) forum fact sheet; (2) rule 10.60 governing the forum; (3) forum webpage; (4) forum’s annual agenda describing its objectives and key projects; (5) background materials: a historical document—the press release,

September 21, 2015

Page 2

dated May 2010, announcing the formation of the forum and operational documents describing the forum's values and principles, communication plan, accomplishments, and educational activities; (6) a membership roster; and (7) meeting schedule.

Please find enclosed the following materials in the right side of your folder: (1) a factsheet describing the tribal/state programs unit, which staffs the forum; (2) the tribal projects webpage, which has additional resources to support the forum; (3) research updates on California's tribal communities— population characteristics, violence and victimization, and tribal justice systems; (4) short issue statements, which cover the range of topics addressed by the forum; (5) an overview of jurisdictional issues; and (6) brochures describing the forum accomplishments to address challenges to recognition and enforcement of tribal protective orders and state/tribal education, partnerships, and services available to tribal and state court judges relating to domestic violence and child welfare.

We look forward to working with you.



JUDICIAL COUNCIL  
OF CALIFORNIA

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## FACT SHEET

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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:*

Jennifer Walter, Supervising Attorney and Forum Counsel, [jennifer.walter@jud.ca.gov](mailto:jennifer.walter@jud.ca.gov),  
415-865-7687

#### *Additional resources:*

[www.courts.ca.gov/forum.htm](http://www.courts.ca.gov/forum.htm)



# California Rules of Court (Revised January 1, 2015)

## **Rule 10.60. Tribal Court-State Court Forum**

### **(a) Area of focus**

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 overlaps.

### **(b) Additional duties**

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.

### **(c) Membership**

The forum must include the following members:

- (1) Tribal court judges or justices selected by tribes in California, as described in (d), but no more than one tribal court judge or justice from each tribe;
- (2) At least three trial court judges from counties in which a tribal court is located;
- (3) At least one appellate justice of the California Courts of Appeal;
- (4) At least one member from each of the following committees: the Access and Fairness Advisory Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Family and Juvenile Law Advisory Committee, Governing Committee of the Center for Judicial Education and Research, Probate and Mental Health Advisory Committee, and Traffic Advisory Committee; and
- (5) As ex officio members, the Director of the California Attorney General's Office of Native American Affairs and the Governor's Tribal Advisor.

The composition of the forum must have an equal or a close-to-equal number of judges or justices from tribal courts and state courts.

### **(d) Member Selection**

- (1) The Chief Justice appoints all forum members, except tribal court judges and tribal court justices, who are appointed as described in (2).
- (2) For each tribe in California with a tribal court, the tribal leadership will appoint the tribal court judge or justice member to the forum consistent with the following selection and appointment process.

- (A) The forum cochaurs will notify the tribal leadership of a vacancy for a tribal court judge or justice and request that they submit names of tribal court judges or justices to serve on the forum.
- (B) A vacancy for a tribal court judge or justice will be filled as it occurs either on the expiration of a member's term or when the member has left the position that qualified the member for the forum.
- (C) If there are more names of tribal court judges and justices submitted by the tribal leadership than vacancies, then the forum cochaurs will confer and decide which tribal court judges or justices should be appointed. Their decision will be based on the diverse background and experience, as well as the geographic location, of the current membership.

**(e) Cochaurs**

The Chief Justice appoints a state appellate justice or trial court judge and a tribal court appellate justice or judge to serve as cochaurs, consistent with rule 10.31(c).

*Rule 10.60 adopted effective October 25, 2013.*

**Judicial Council Comment**

Tribes are recognized as distinct, independent political nations (see *Worcester v. Georgia* (1832) 31 U.S. 515, 559, and *Santa Clara Pueblo v. Martinez* (1978) 436 U.S. 49, 55, citing *Worcester*), which retain inherent authority to establish their own form of government, including tribal justice systems. (25 U.S.C.A. § 3601(4).) Tribal justice systems are an essential part of tribal governments and serve to ensure the public health and safety and the political integrity of tribal governments. (25 U.S.C.A. § 3601(5).) Traditional tribal justice practices are essential to the maintenance of the culture and identity of tribes. (25 U.S.C.A. § 3601(7).)

The constitutional recognition of tribes as sovereigns in a government-to-government relationship with all other sovereigns is a well-established principle of federal Indian law. (See *Cohen's Handbook of Federal Indian Law* (2005) p. 207.) In recognition of this sovereignty, the council's oversight of the forum, through an internal committee under rule 10.30(d), is limited to oversight of the forum's work and activities and does not include oversight of any tribe or tribal court.

**CALIFORNIA COURTS**  
THE JUDICIAL BRANCH OF CALIFORNIA

[close this page](#)

## Tribal Court-State Court Forum

**Purpose:**

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 overlaps.

**Date Established:**

December 2010

[MEETINGS](#)   [MEMBERS](#)   [ABOUT](#)

**April 16, 2015 Meeting (Teleconference)**

12:15–1:15 p.m.

Public Call-In Number: 1-877-820-7831 and enter Listen Only Passcode: 4133250

[Notice](#)  
[Agenda](#)  
[Materials](#)

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**2015 Conference Call Schedule**

June 11, 2015

**Previous Meetings**

[2015 Tribal Court-State Court Forum Meetings](#)  
[2014 Tribal Court-State Court Forum Meetings](#)

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**CONTACT INFORMATION**

**Center for Families, Children & the Courts**

Operations & Services

[forum@jud.ca.gov](mailto:forum@jud.ca.gov)

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**Tribal Court–State Court Forum**  
**Annual Agenda—2015**  
**Approved by E&P: April 16, 2015**

**I. ADVISORY BODY INFORMATION**

<b>Chair:</b>	Judge Richard C. Blake and Justice Dennis M. Perluss
<b>Staff:</b>	Ms. Jennifer Walter, Supervising Attorney, Center for Families, Children & the Courts
<p><b>Advisory Body’s Charge:</b> 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 overlaps.</p> <p>In addition to the general duties and responsibilities applicable to all advisory committees as described in rule 10.34, the forum must:</p> <ol style="list-style-type: none"><li>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;</li><li>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;</li><li>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;</li><li>4. Recommend appropriate activities needed to support local tribal court–state court collaborations; and</li><li>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.</li></ol> <p>[Excerpted from California Rules of Court, Rule 10.60]</p>	

**Advisory Body's Membership:** Thirty positions- 1 vacancy and 28 members representing the following categories:

- 12 Tribal Court Judges (nominated by their tribal leadership, representing 15 of the 23 tribal courts currently operating in California; these courts serve approximately 40 tribes)
- Director of the California Attorney General's Office of Native American Affairs
- Tribal Advisor to the California Governor
- 1 Appellate Justice
- 7 Chairs or their Designees of the following California Judicial Council advisory committees:
  - Access and Fairness Advisory Committee
  - Center for Judicial Education and Research (CJER) Governing Committee
  - Civil and Small Claims Advisory Committee
  - Criminal Law Advisory Committee
  - Family and Juvenile Law Advisory Committee (2 positions)
  - Probate and Mental Health Advisory Committee
  - Traffic Advisory Committee
- 5 Trial Court Judicial Officers (selected from local courts in counties where tribal courts are situated)
- 1 retired judge

Members' appointment orders expire September 14, 2015, with the exception of members Ms. Jacqueline Davenport and Judge D. Zeke Zeidler, whose terms expire on September 14, 2017. In order to achieve staggered terms for positions on the forum, membership will be allocated such that approximately one third of the members will have one-year terms, one third will have two-year terms, and one third will have three-year terms. Initial terms as of September 14, 2015 will be allocated in this manner; thereafter, all terms will be for 3 years and staggered.

**Subgroups/Working Groups:<sup>1</sup>**

1. Education Subcommittee (group disbanded in favor of full committee input regarding educational activities)
2. Protocol Working Group (group disbanded in favor of full committee input into protocol development)
3. Forum/Probate Legislative Working Group (work completed and group disbanded)

**Advisory Body's Key Objectives for 2015:**

1. Make policy recommendations that enable tribal and state courts to improve access to justice, to issue orders, and to enforce orders to the fullest extent allowed by law.
2. Increase Tribal/State Partnerships that identify issues of mutual concern and proposed solutions.
3. 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, including interjurisdictional issues.

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<sup>1</sup> California Rules of Court, rule 10.30(c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

## II. ADVISORY BODY PROJECTS

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
I.	<p><b>Policy Recommendations:</b></p> <p><b>A. Legislation-</b></p> <ol style="list-style-type: none"> <li>1. Make recommendation to sponsor or support amendment to the Family Code to expressly authorize tribal court judges to solemnize marriages</li> </ol> <p><i>Major Tasks:</i></p> <ol style="list-style-type: none"> <li>(i) Evaluate proposal</li> <li>(ii) Make recommendation to sponsor or support proposal</li> </ol> <ol style="list-style-type: none"> <li>2. Submit Comment to the Federal Office of Child Support Enforcement on the <i>Notice of Proposed Rule Making (NPRM): Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs</i> (as published in the Federal Register on</li> </ol>	2(b)	<p><b>Judicial Council Direction:</b></p> <p>Strategic Plan Goal II: Independence and Accountability. Operational Plan Objective 3.</p> <p>Strategic Plan Goal III: Modernization of Management and Administration. Operational Plan Objective 5.</p> <p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence. Operational Plan Objective 4.</p> <p>Origin of Project: Forum</p> <p><b>Resources:</b></p> <p><i>Council Committees:</i> Forum and Policy Coordination and Liaison Committee (PCLC)</p> <p><i>Judicial Council Staffing:</i> CFCC and Office of Governmental Affairs (OGA)</p> <p><b>Key Objective Supported: 1</b></p>	<p>2015</p> <p>January 16, 2015</p>	<p>Legislative proposal</p> <p>Comment submitted on federal legislation</p>

<sup>2</sup> All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

<sup>3</sup> For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>November, 17, 2014 (Vol. 79 FR No. 221 68548)</p> <p><i>Major Tasks:</i></p> <p>(i) Evaluate NPRM</p> <p>(ii) Make recommendation to PCLC to submit comment</p>		<p>Make policy recommendations that enable tribal and state courts to improve access to justice, to issue orders, and to enforce orders to the fullest extent allowed by law.</p>		
	<p><b>Policy Recommendations:</b></p> <p><b>B. Rules and Forms-Indian Child Welfare Act and Inter-Court Transfer of Cases</b></p> <p><i>Major Tasks:</i></p> <p>(i) Monitor pending California Supreme Court case <i>In re Abbigail (2014) 226 Cal.App.4th 1450 [173 Cal.Rptr.3d 191]</i>, review granted Sept. 10, 2014, S220187 for possible amendments to rules 5.482(c) and 5.484(c)(2); concurrently amend <i>Notice of Child Custody Proceeding for Indian Child (ICWA-030)</i> in light of that decision and <i>In re S.E. (2013) 217 Cal. App. 4th 610 (2nd District)</i>.</p> <p>(ii) Make recommendations to</p>	2(b)	<p><b>Judicial Council Direction:</b></p> <p>Strategic Plan Goal II: Independence and Accountability. Operational Plan Objective 3.</p> <p>Strategic Plan Goal III: Modernization of Management and Administration. Operational Plan Objective 5.</p> <p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence. Operational Plan Objective 4.</p> <p>Origin of Project: California Department of Social Services and Statewide Workgroup on the Indian Child Welfare Act</p> <p><b>Resources:</b> <i>Council Committees:</i> Appellate Advisory Committee, Family and Juvenile Law Advisory Committee, and Forum</p>	2015	Rule and form amendments



#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>revise forms, ICWA-060 and JV-800, and amend rule 5.483 to ensure due process and 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.</p>		<p><i>Judicial Council Staffing:</i> CFCC and LSO</p> <p><b><i>Key Objective Supported: 1</i></b></p>		
	<p><b>Policy Recommendations:</b> <b>C. Technological Advances</b></p> <p><i>Major Tasks</i></p> <p>(i) Consult with the California Attorney General’s Office regarding access to California Law Enforcement Telecommunications System (CLETS) by tribal courts.</p> <p>(ii) Recommend Judicial Council staff continue giving tribal courts access to the California Courts Protective Order (CCPOR) Registry.</p>	2(b)	<p><b><i>Judicial Council Direction:</i></b> Strategic Plan Goal II: Independence and Accountability. Operational Plan Objective 3.</p> <p>Strategic Plan Goal III: Modernization of Management and Administration.</p> <p>Operational Plan Objective 5: Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p>	Ongoing	<p>(i) Tribal court judges will be able to enter their protective orders into CLETS and enforcement will be improved</p> <p>(ii) State and tribal courts will be able to see each other’s protective orders, to avoid conflicting orders, and to promote</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>(iii) Recommend a pilot project that would provide electronic notice to tribes in Indian Child Welfare Act (ICWA) cases.</p> <p>(iv) Recommend continuation of tribal Domestic Assistance Self Help (DASH) Tribal/State Program</p>		<p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence.</p> <p>Operational Plan Objective 4: Implement new tools to support the electronic exchange of court information while balancing privacy and security.</p> <p><i>Origin of Project:</i> Forum</p> <p><i>Resources:</i> <i>Committees:</i> Forum</p> <p><i>Judicial Council Staffing:</i> Information Technology</p> <p><i>Collaborations:</i> California Attorney General's Office</p> <p><i>Key Objective Supported:</i> 1</p>		<p>enforcement of these orders.</p> <p>(iii) Electronic notice would result in faster identification of children and application of ICWA's protections. It would also result in a considerable savings to the pilot counties in social worker and mailing expenses. It should also produce savings to the courts because of anticipated reduction in notice issues being raised on appeal.</p> <p>(iv) DASH improves access to justice for litigants by giving them legal assistance and other traditional services, including safety planning and social services. Litigants do not need to travel to an attorney or self-help center, but can get help from a tribal</p>



#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p><u>Review Commission</u> (CLRC) on its study of the enforcement of tribal civil money judgments (see <u>SB 406</u>, Stats. 2014, Ch. 243, effective January 1, 2015).</p> <p>3. Develop a proposal to promote the education of federal Indian law in California law schools.</p>		<p><b>Origin of Project:</b> Forum and legislative study by CLRC</p> <p><b>Resources:</b> <i>Committees:</i> Forum</p> <p><i>Judicial Council Staffing:</i> CFCC</p> <p><i>Collaborations:</i> CLRC</p> <p><b>Key Objective supported:</b> 1</p>		<p>Proposal prepared and vetted by State Bar of California and other stakeholders</p>
<p><b>II.</b></p>	<p><b>Increase Tribal/State Partnerships:</b></p> <p><b>A. Sharing Resources and Communicating Information About Partnerships</b></p> <p>Major Tasks:</p> <p>(i) Identify council and other resources that may be appropriate to share with tribal courts.</p> <p>(ii) Identify tribal justice resources that may be appropriate to share with state courts.</p> <p>(iii) Identify grants for tribal/state court collaboration</p> <p>(iv) Share resources and information about</p>	<p>2(b)</p>	<p><b>Judicial Council Direction:</b> Strategic Plan Goal I: Access, Fairness, &amp; Diversity.</p> <p>Operational Plan Objectives 1, 2, 4:</p> <ul style="list-style-type: none"> <li>• Ensure that all court users are treated with dignity, respect, and concern for their rights and cultural backgrounds, without bias or appearance of bias, and are given an opportunity to be heard.</li> <li>• Identify and eliminate barriers to court access at all levels of service; ensure interactions with the court are understandable, convenient, and perceived as fair.</li> <li>• Expand the availability of legal assistance, advice and representation for litigants with limited financial resources.</li> </ul>	<p>Ongoing</p>	<p>(i) E-Forum Updates</p> <p>(ii) Increased number of tribal/state partnerships in California</p> <p>(iii) Recommendations to feature partnerships</p> <p>(iv) Education to showcase</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>partnerships through Forum E-Update, a monthly electronic newsletter</p> <p>(v) Publicize these partnerships at conferences, on the Innovation Knowledge Center (IKC), and at other in-person or online venues.</p>		<p>Strategic Plan Goal IV: Quality of Justice and Service to the Public.</p> <p>Operational Plan Objectives 1, 3:</p> <ul style="list-style-type: none"> <li>• Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</li> <li>• Develop and support collaborations to improve court practices to leverage and share resources and to create tools to educate court stakeholders and the public.</li> </ul> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial Council</p> <p><b>Resources:</b>  <i>Council Committees:</i> Court Executives Advisory Committee (CEAC), Forum, and Task Force on Trial Court Fiscal Accountability</p> <p><i>Judicial Council Staffing:</i> CFCC, Court Operations Special Services Office, and Leadership Services Division</p> <p><i>Collaborations:</i>  Local tribal and state courts</p>		<p>partnerships</p> <p>(v) Conferences and IKC feature tribal/state partnerships</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p><b>Key Objective Supported: 2</b> Increase Tribal/State Partnerships that identify issues of mutual concern and proposed solutions.</p>		
	<p><b>Increase Tribal/State Partnerships:</b> <b>B. Education and technical assistance to promote partnerships and understanding of tribal justice systems</b></p> <p>Major Tasks: (i) Make recommendation to Judicial Council staff to continue providing educational and technical assistance to local tribal and state courts to address domestic violence and child custody issues in Indian Country</p> <p>(ii) Make recommendation to Judicial Council staff to continue giving technical assistance to tribal and state</p>	2(b)	<p><b>Judicial Council Direction:</b> Strategic Plan Goal I: Access, Fairness, &amp; Diversity.</p> <p>Operational Plan Objectives 1, 2, 4:</p> <ul style="list-style-type: none"> <li>• Ensure that all court users are treated with dignity, respect, and concern for their rights and cultural backgrounds, without bias or appearance of bias, and are given an opportunity to be heard.</li> <li>• Identify and eliminate barriers to court access at all levels of service; ensure interactions with the court are understandable, convenient, and perceived as fair.</li> <li>• Expand the availability of legal assistance, advice and representation for litigants with limited financial resources.</li> </ul> <p>Strategic Plan Goal IV: Quality of Justice and Service to the Public.</p> <p>Operational Plan Objectives 1, 3:</p> <ul style="list-style-type: none"> <li>• Foster excellence in public service to ensure that all court users receive satisfactory services and</li> </ul>	Ongoing	<p>(i) State/Tribal Education, Partnerships, and Services (S.T.E.P.S) to Justice— Domestic Violence and Child Custody (Information for Tribal Court and State Court Judges disseminated and services offered)</p> <p>(ii) Joint Jurisdictional Court(s) Established</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>courts interested in establishing a joint jurisdictional court.</p> <p>(ii) Make recommendation to Judicial Council staff to develop a toolkit for state and tribal court administrators interested in learning about each other's court operations and procedures.</p> <p><b>C. Tribal/State collaborations that increase resources for courts</b></p> <p>Major Tasks:</p> <p>(i) Develop and implement strategy to seek resources</p>		<p>outcomes.</p> <ul style="list-style-type: none"> <li>Develop and support collaborations to improve court practices to leverage and share resources and to create tools to educate court stakeholders and the public.</li> </ul> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial Council</p> <p><b>Resources:</b>  <i>Council Committees:</i> Court Executives Advisory Committee (CEAC), Forum, and Task Force on Trial Court Fiscal Accountability</p> <p><i>Judicial Council Staffing:</i> CFCC, Court Operations Special Services Office, and Leadership Services Division</p> <p><i>Collaborations:</i> Local tribal and state courts</p> <p><b>Key Objective Supported: 2</b></p> <p><b>Judicial Council Direction:</b> Strategic Plan Goal IV: Quality of Justice and Service to the Public. Operational Plan Objectives 1, 3:</p>		<p>(iii) Court administrators' toolkit developed</p> <p>Strategic plan to increase resources for</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<ul style="list-style-type: none"> <li>• Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</li> <li>• Develop and support collaborations to improve court practices to leverage and share resources and to create tools to educate court stakeholders and the public.</li> </ul> <p><i>Origin of Projects:</i> Forum</p> <p><i>Resources:</i> <i>Council Committees:</i> Forum</p> <p><i>Judicial Council Staffing:</i> CFCC</p> <p><i>Collaborations:</i> Local tribal and state courts</p> <p><i>Key Objective Supported: 2</i> Increase Tribal/State Partnerships that identify issues of mutual concern and proposed solutions.</p>		courts
III.	<b>Education:</b> <b>A. Judicial Education</b> Make recommendations to the Judicial Council’s CJER Governing Committee to incorporate federal Indian	2(b)	<p><i>Judicial Council Direction:</i> Strategic Plan Goal V: Education for Branchwide Professional Excellence. Operational Plan Objective 1:</p> <ul style="list-style-type: none"> <li>• Provide relevant and accessible education and professional</li> </ul>	Ongoing, completion date depends on resources to incorporate recommendations.	Memorandum to CJER Governing Committee summarizing recommendations to existing educational programming.



#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>law into all appropriate educational publications and programming for state court judges and advise on content; revisions to include federal Indian law and the interjurisdictional issues that face tribal and state courts.</p>		<p>development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial Council Resolution (June 1, 2012).</p> <p><b>Resources:</b>  <i>Committees:</i> Center for Judicial Education and Research (CJER) Governing Committee and forum</p> <p><i>Judicial Council Staffing:</i>  CFCC, CJER, IT, and LSO</p> <p><b>Key Objective Supported: 3</b></p> <ul style="list-style-type: none"> <li>• 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.</li> </ul>		
	<p><b>Education:</b>  <b>B. Education- Documentary</b>  Consult on and participate in the production of a documentary describing tribal justice systems and</p>	2(b)	<p><b>Judicial Council Direction:</b>  Strategic Plan Goal V: Education for Branchwide Professional Excellence.</p> <p>Operational Plan Objective 1:</p> <ul style="list-style-type: none"> <li>• Provide relevant and accessible</li> </ul>	Ongoing, completion date depends on funding.	One-hour documentary on California Tribal Justice Systems

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>highlighting collaboration between these systems and the state justice system in California.</p>		<p>education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial Council Resolution (June 1, 2012).</p> <p><b>Resources:</b>  <i>Committees:</i> Center for Judicial Education and Research (CJER) Governing Committee and forum</p> <p><i>Judicial Council Staffing:</i>  CFCC</p> <p><b>Key Objective Supported: 3</b></p>		
	<p><b>Education:</b>  <b>C. Education- Court Extranet Name Change</b>  Recommend to the judicial council staff that it change the name of the Judicial Branch Court Extranet/Serranus (possible new name could be Court Online Resources and Education (CORE)).</p>	2(b)	<p><b>Judicial Council Direction:</b>  Strategic Plan Goal V: Education for Branchwide Professional Excellence. Operational Plan Objective 1:</p> <ul style="list-style-type: none"> <li>• Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</li> </ul> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial</p>	Ongoing, completion date depends on website redesign date.	Website name is changed.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Council Resolution (June 1, 2012).</p> <p><b>Resources:</b>  <i>Committees:</i> Center for Judicial Education and Research (CJER) Governing Committee and forum</p> <p><i>Judicial Council Staffing:</i>  IT</p> <p><b>Key Objective Supported: 3</b></p>		

### III. STATUS OF 2014 PROJECTS:


*[List each of the projects that were included in the 2014 Annual Agenda and provide the status for the project.]*

#	Project	Completion Date/Status
1.	<p><b>Sharing Resources (see page 8, item II.A.i.)</b>            Disseminated information to tribal court judges and state court judges on a monthly basis through the Forum E-Update, a monthly electronic newsletter with information on the following:</p> <ul style="list-style-type: none"> <li>• Grant opportunities;</li> <li>• Publications;</li> <li>• News stories; and</li> <li>• Educational events.</li> </ul>	Ongoing
2.	<p><b>Tribal Engagement and Consultation (see page 10, item II.B.i.)</b></p> <ul style="list-style-type: none"> <li>• Assisted the Los Angeles Superior Court in establishing the Indian Child Welfare Act Roundtable, a court-coordinated community response to Indian Child Welfare Act (ICWA) cases in Los Angeles County</li> </ul>	January, 2014
3.	<p><b>Grant Development to Support Forum Activities to Achieve Key Objectives (see page 8, item II.A.iii.)</b></p> <ul style="list-style-type: none"> <li>• Obtained funding from the Office on Violence Against Women, U.S. Department of Justice that is administered through the California Office of Emergency Services (CalOES). This funding pays for the associated travel expenses for judges to participate in cross-court educational exchanges. These exchanges are judicially led and shaped by the host judges (one tribal court judge and one state court judge) and enable the judges to continue the dialogue on domestic violence and elder abuse in tribal communities, which began as part of a statewide needs assessment. At these exchanges, judges utilize a checklist of problems and solutions identified through the needs assessment to determine how they can work together to address these issues locally.</li> <li>• Obtained funding from the California Department of Social</li> </ul>	Ongoing

	Services. This funding pays for the associated travel expenses for forum members to improve compliance with the Indian Child Welfare Act.	
4.	<b>Access to CLETS by Tribal Courts and Tribal Law Enforcement (see page 4, item I.C.i.)</b> In partnership with the California Department of Justice, this work is ongoing.	Ongoing
5.	<b>Legislative Proposal to Give Tribal Access to Juvenile Court Records (see page 3, item I.A.)</b> Jointly recommended with the Family and Juvenile Law Advisory Committee legislative amendments to Welfare and Institutions Code section 827 to give tribal access to juvenile court records. Following the Judicial Council's adoption of the proposal at its December 2013 meeting, <a href="#">AB 1618: Tribal Access to Confidential Juvenile Court Files</a> was introduced. Chaptered as Stats. 2014, Ch. 37, effective January 1, 2015.	Completed, June 25, 2014
6.	<b>Legislative Proposal to Simplify and Clarify the Process by Which Tribal Court Civil Money Judgments are recognized and enforced in California (see page 3, item I.A.)</b> In collaboration with the Office of Governmental Affairs, recommended amendments to <a href="#">SB 406</a> limiting the bill's application to civil money judgments. Chaptered as Stats. 2014, Ch. 243, effective January 1, 2015. The <a href="#">California Law Revision Commission</a> will be studying its implementation.	Completed, August 22, 2014
7.	<b>Access to the California Courts Protective Order Registry (see page 5, item I.C.ii.)</b> In collaboration with the Information Technologies Services Office, all tribal courts have been offered read-only access to the California Courts Protective Order Registry (CCPOR). Courts that have access to this registry can view each other's protective orders, avoid issuing conflicting orders, and are better able to protect the	Ongoing

	<p>public, particularly victims of domestic violence. Through this project, tribal court judges and tribal law enforcement for the following California Tribes—Cahto Tribe of the Laytonville, Rancheria, Coyote Band of Pomo Indians, Hopland Band of Pomo Indians, Hoopa, Manchester Point Arena Band of Pomo Indians, Quechan, Redding Rancheria, San Manuel, Shingle Springs, Smith River, and Yurok—now have read-only access to domestic violence and other restraining and protective orders, along with the 31 state court jurisdictions that are currently participating in CCPOR.</p>	
8.	<p><b>Transfer Rule: Amendment to Rule 5.483 (see page 5, item I.B.ii.)</b>          Proposal to amend the rule to ensure that the order for transfer of a juvenile case from state court to tribal court addresses such essential 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 provide to the tribal court and tribal social service agency upon transfer.</p>	September, 2015
9.	<p><b>Electronic Notice in ICWA Cases (see page 6, item I.B.iii.)</b>          Collaborating with the National Center for State Courts, the National Center for Juvenile and Family Court Judges, the Cherokee Nation, the Los Angeles County Counsel’s Office. Adoption of National Information Exchange Model standards for a tribal/court/county exchange. Piloted a data exchange between the Los Angeles Office of the County Counsel and the Cherokee Nation.</p>	Ongoing
10.	<p><b>Information Sharing to Inform Policy-Makers (see page 9, item II.A.v.)</b></p> <ul style="list-style-type: none"> <li>• Promoted effective tribal/state collaborations by making presentations to the following groups: (1) council staff in San Francisco; (2) the Alabama-Coushatta Tribe of Texas 4<sup>th</sup> Annual Judicial Symposium in Texas; (3) the Cow County</li> </ul>	Ongoing

	<p>Institute at Rancho Cordova; (4) the 2014 Family Law and Self Help Conference in San Francisco; (5) the 2014 Law and Society Association Annual Conference program: Law and Inequalities in Minneapolis; and (6) the 14th National Indian Nations Conference at Agua Caliente.</p> <ul style="list-style-type: none"> <li>• Convened two cross-court educational exchanges on tribal lands at Karuk (Siskiyou County) and Washoe Paiute (Inyo County). These exchanges both model the collaborative relationships among tribal and state court judges at a local level and foster partnerships among tribal and non-tribal agencies and service providers. Through these exchanges, which are judicially-convened on tribal lands, participants identified areas of mutual concern, new ways of working together, and coordinated approaches to enforcing tribal and state court orders. Since no court order is self-executing, these exchanges serve to support both state and tribal courts by ensuring that those who are providing court-connected services are working together and understand jurisdictional complexity and the needs of tribal communities.</li> </ul>	
11.	<p><b>Develop and Facilitate Local Protocols to Promote Collaboration and Promising Practices (See page 8, item II.A.iv-v.)</b></p> <ul style="list-style-type: none"> <li>• Maintain resources for tribal/state collaborations. These resources include protocols, memoranda of understanding, and intergovernmental agreements relating to title IV-E and access to foster care and adoption funding, child custody, criminal procedures, cross-deputization, and domestic violence. <a href="http://www.courts.ca.gov/17422.htm">http://www.courts.ca.gov/17422.htm</a>.</li> <li>• Promote joint jurisdictional court established by the Shingle Springs Band of Miwok Indians and the El Dorado Superior Court.</li> <li>• Promote tribal/state collaborations by submitting nomination forms describing local, innovative collaborations to the Trial Court Presiding Judges Advisory Committee/Court Executives</li> </ul>	Ongoing

	<p>Advisory Committee Joint Trial Court Efficiencies and Innovations Working Group for their approval to add and post to the Innovation Knowledge Center (IKC). As a result of the 7 submissions ranging from innovations in handling child support, civil, domestic violence, and juvenile cases, the IKC now has an icon featuring tribal/state collaborations.</p> 	
12.	<p><b>Elder Abuse and Probate Cases- Mutual Recognition and Enforcement of Orders (see page 3, item I.A. and page 12, III.A.)</b></p> <ul style="list-style-type: none"> <li>• Convened and participated in a joint working group of the members of the forum and the Probate and Mental Health Advisory Committee for the limited purpose of recommending legislative changes to the California Law Review Commission (Commission) in connection with the Commission’s recommendation for adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act in California (UAGPPJA). Recommended that comments be submitted to the Commission on behalf of the Judicial Council. These comments included a new Article 6 be added to the proposed California UAGPPJA, consisting of new Probate Code sections 2041–2047, to deal specifically with interactions between California tribal courts and state courts in matters covered by UAGPPJA and to address issues involving conservatorships for members of Indian tribes located in California. The Commission incorporated these comments into the bill, <a href="#">SB 940 Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA)</a>, which was chaptered as Stats. 2014, Ch. 553.</li> <li>• Wrote and published a tribal elder abuse benchguide, which stands alone as a benchguide and will also be incorporated into the soon-to-be-released Elder Abuse Benchguide.</li> </ul>	September 25, 2014



13.	<p><b>Traffic Cases- Mutual Recognition and Enforcement of Orders (See page 3, item I.A.)</b>  Concluded that legislation was needed to address the issues of public safety on tribal lands relating to recognition and enforcement of traffic violations and the lack of tribal access to confidential records maintained by the California Department of Motor Vehicles. After vetting the issues and exploring the feasibility of a legislative solution with the Governor’s Tribal Advisor and the California Business, Transportation &amp; Housing Agency, the forum concluded that such legislation would be beyond the purview of the California Judicial Council to sponsor.</p>	January, 2014
14.	<p><b>Judicial Education (see page 12, item III.A.)</b>  Working in collaboration with the Center for Judicial Education and Research (CJER) Governing Committee to integrate federal Indian law into educational programs and resources conducted and developed by CJER. The CJER Governing Committee has placed this recommendation on the agenda for its February in-person meeting.</p>	Ongoing
15.	<p><b>Documentary: (see page 13, item III.B.)</b></p> <ul style="list-style-type: none"> <li>• Requested an informal opinion from the California Supreme Court Committee on Judicial Ethics Opinions (Committee) on whether the appearance in the film of one or more state court judges violates canon 2(B)(2) or any other provision of the California Code of Judicial Ethics. The <a href="#">Committee’s opinion</a> was that it did not (with certain cautionary comments).</li> <li>• The production team completed filming at Yurok; additional filming is scheduled for Quechan. It is expected that the film will be completed in 2015.</li> </ul>	December, 2015
16.	<p><b>Judicial Branch Court Extranet (see page 14, item III.C.)</b>  Recommended name change for Serranus; awaiting redesign of website for name change.</p>	Completion date depends on website redesign date

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#### **IV. Subgroups/Working Groups - Detail**

**Subgroups/Working Groups:** *[For each group listed in Section I, including any proposed “new” subgroups/working groups, provide the below information. For working groups that include members who are not on this advisory body, provide information about the additional members (e.g., from which other advisory bodies), and include the number of representatives from this advisory body as well as additional members on the working group.]*

*Subgroup or working group name:*

*Purpose of subgroup or working group:*

*Number of advisory body members on the subgroup or working group:*

*Number and description of additional members (not on this advisory body):*

*Date formed:*

*Number of meetings or how often the subgroup or working group meets:*

*Ongoing or date work is expected to be completed:*

# Background Materials



# NEWS RELEASE

Release Number: 22

Release Date: **May 20, 2010**

JUDICIAL COUNCIL OF  
CALIFORNIA  
ADMINISTRATIVE OFFICE  
OF THE COURTS  
Public Information Office  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
[www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)

415-865-7740

Lynn Holton  
Public Information Officer

## **Chief Justice George Appoints New Coalition of Tribal and State Courts**

San Francisco—Chief Justice Ronald M. George today announced the appointment of the California Tribal Court/State Court Coalition, the first organization of its kind in the state.

The purpose of the coalition is to develop measures to improve the working relationship between California's tribal and state courts and to focus on areas of mutual concern. The coalition will study and provide recommendations on such areas as enforcement and recognition of protective and other kinds of orders and judgments, jurisdictional issues, and how to ensure access to justice in Indian country in the areas of domestic violence, sexual assault, stalking, and teen-dating violence.

“Tribal and state courts share the same essential commitment to serve the public,” stated Chief Justice Ronald M. George. “By developing procedures that will foster cooperation on jurisdictional issues, tribal and state courts can work together to ensure the effective and efficient administration of justice for those coming to our courts.”

The coalition will be cochaired by Judge Richard C. Blake, Chief Judge of the Hoopa Tribal Court and Presiding Judge of the Smith River Rancheria Tribal Court, and Justice Richard D. Huffman, Associate Justice of the Court of Appeal, Fourth Appellate District, Division One.

Members of the coalition include tribal court judges; state court judges; chairs of the Judicial Council's advisory committees on access and fairness, criminal law, civil and small claims, family and juvenile, and traffic; and the director of Native American Affairs for the State Attorney General's Office.

The formation of the coalition results from a historic meeting held in December 2009 where issues were discussed concerning tribal and state

(over)

courts. Funding for the coalition will be provided by a federal grant.

*The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. The Administrative Office of the Courts carries out the official actions of the council and promotes leadership and excellence in court administration.*

# CALIFORNIA TRIBAL COURT–STATE COURT FORUM

## Principles and Values:

### A Living Document

*Forum members anticipate revising this document on an ongoing basis to reflect the evolution of values over time in the course of sharing experiences and learning from one another.*

The California Tribal Court–State Court Forum is guided by the following set of overarching principles, adopted early on in its deliberations:

#### History

1. Historical evolution of the United States and of federal/ and state Indian policy and law are opposite sides of the same coin. Historical perspective is essential to putting the statutes, treaties, and cases in the body of Indian law in their historical context.

#### Sovereignty

2. Tribes have a unique government-to-government relationship with all other sovereigns.
3. Tribes, as sovereign entities, possess inherent authority to create their own governments and establish their own laws.
4. Among the attributes of tribal sovereignty are the jurisdiction and authority to establish justice systems to meet the needs and reflect the values and traditions of the tribal community.
5. That sovereignty is impacted by the reality of centuries of law and policy that bring the various sovereign bodies—state, tribal, and federal—to this era.

#### Citizenship

6. Tribal members are citizens of their tribes, citizens of the State of California, and citizens of the United States.
7. All of these sovereign authorities agree that all citizens deserve equal access to justice.
8. It is in the best interest of all citizens for tribal courts and the Courts of the State of California to coordinate and share resources in order to achieve a seamless delivery of justice and to ensure that our citizens receive the benefit of all that both systems have to offer.

#### Tribal and State Justice Systems

9. Tribal Courts and the Courts of the State of California are fundamentally similar; they have more in common than they have differences.

10. Tribal Courts and the Courts of the State of California share the same goals: the fair process for and quality treatment of all people who appear before them, public safety, and accountability.
11. Tribal and State justice systems will necessarily look different because there are procedural, substantive, and cultural differences in how they deliver justice.
12. Tribal and State justice systems both value justice, even as they may not always agree on what those justice systems look like.
13. Neither Tribal nor State justice systems hold exclusive franchise over the best way to deliver justice.

### **Education and the Promotion of Mutual Trust and Respect**

14. Tribal Courts and the Courts of the State of California and their justice partners have much to learn from one another, and when differences occur, tribal and state court judges agree to discuss those differences and convene justice partners to discuss them.
15. The desire for consensus and communitywide harmony serves as a philosophical foundation for Tribal Court and State Court judges to use to bridge those differences.
16. Mutual respect implies understanding and acceptance of the other person's culture, religious beliefs, and background.<sup>1</sup>
17. Mutual respect is engendered through education—gaining historical perspective, learning from one another, discussing areas of mutual concern, visiting each other's Courts—building consensus, and together finding solutions to the pressing issues confronting Tribal Courts and the Courts of the State of California for the benefit of citizens of Tribes and of the State alike.

Forum members identified a set of values to inform their work together:

- Equal Representation— Equal representation from Tribal and State justice systems
- Cooperation—Actively fostering cooperation between Tribal Courts and the Courts of the State of California;
- Sharing— Sharing available resources between Tribal Courts and the Courts of the State of California;
- Improving Access to Justice— Working cooperatively to improve access to justice by addressing jurisdictional issues and the lack of services and other resources in Indian Country; and
- Mutually Acceptable Solutions— Working cooperatively to identify and address areas of concurrent jurisdiction and establish mechanisms for the allocation, sharing and transfer of jurisdiction and working cooperatively to identify and address issues of full faith and credit and mutual enforcement of court orders.

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<sup>1</sup> The American Indian Religious Freedom Act (Public Law 95-341), a joint resolution of Congress passed in 1978, declared it Federal policy "to protect and preserve for American Indians their inherent right of freedom to believe, express and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians."

# California State-Federal Judicial Council

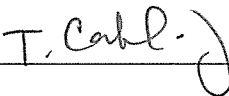
## RESOLUTION (Adopted on June 1, 2012)

WHEREAS, the California State-Federal Judicial Council is committed to direct and personal communication among judges of the California state, federal, and tribal courts concerning matters of mutual interest and concern;

WHEREAS, the California State-Federal Judicial Council is committed to coordinating with the California Tribal State Court Forum to explore and develop methods to use scarce judicial assets so as to benefit the three systems and Native American citizens of the state;

WHEREAS, the California State-Federal Judicial Council acknowledges the importance of judicial education as a tool to improve communication, foster understanding, and maximize resources;

BE IT THEREFORE RESOLVED, that the California State-Federal Judicial Council, in collaboration with the California Tribal State Court Forum, will identify opportunities to share educational resources and encourage the development of judicial education programming and materials on federal Indian law and its impact on federal, state, and tribal courts in order to improve the process and outcomes for Native American citizens throughout the State of California.



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Tani G. Cantil-Sakauye, Co-Chair,  
California State-Federal Judicial Council  
Chief Justice of California



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Arthur Alarcón, Co-Chair  
California State-Federal Judicial Council  
Senior Circuit Judge, U.S. Court of  
Appeals, Ninth Circuit



# CALIFORNIA TRIBAL COURT/STATE COURT FORUM

## Communication Plan

The California Tribal Court/State Court Forum adopted this communication plan early on in its deliberations:

- All in-person meeting agendas and notes will be posted to the California Courts website on the Tribal Projects page at [www.courts.ca.gov/programs-tribal.htm](http://www.courts.ca.gov/programs-tribal.htm).
- All actions of the forum will be communicated by the AOC and forum members to state and tribal justice system partners as follows:
  1. State court judges will keep the Judicial Council's advisory committees informed of actions taken;
  2. Tribal court judges will each inform their tribal court stakeholders and tribal governments of their own tribes ;
  3. For tribes without tribal courts, the AOC will inform tribal chairs of federally recognized and nonrecognized Tribes;
  4. For tribes with tribal courts but no coalition member yet appointed, the AOC will inform the tribal courts' administrators;
  5. The tribal adviser to the Governor will inform the Governor; and
  6. The director of the Office of Native American Affairs, an agency of the California Attorney General's Office, will inform the Attorney General and, as needed, any appropriate law enforcement agencies.
- When forum recommendations impact other tribal, county, or state agencies, the cochairs of the forum will enlist the support of forum members and the AOC staff, as appropriate, to contact these justice partners.
- When forum activities warrant media attention, the cochairs will work with the AOC and tribal governments to coordinate press releases to media outlets, including Native American outlets such as *Indian Country Today*.

# CALIFORNIA TRIBAL COURT–STATE COURT FORUM

## Forum Accomplishments- Highlights

(2010-2014)

Below are some of the key accomplishments of the forum:

1. Sharing of Resources: judicial education and technical assistance to support each other's court capacity to meet the needs of its citizens. Resources have extended to areas of court forms, collaborative justice, court security, grants, human resources, protective order database information, supervised visitation, and self-help.
2. Developing New Resources: curriculum on civil and criminal jurisdiction in a Public Law 280 state, educational offerings at tribal and state court sponsored trainings, updates to existing judicial curriculum and benchguides, and creation of a website to serve as a clearinghouse of resources.
3. Collection of Tribe-Specific Data and Information
  - population characteristics  
(<http://www.courts.ca.gov/documents/Tribal-ResearchUpdate-NAStats.pdf>)
  - domestic and other violence and victimization statistics  
([www.courts.ca.gov/documents/NatAmStatsAbUpdate.pdf](http://www.courts.ca.gov/documents/NatAmStatsAbUpdate.pdf))
  - tribal court directory ([www.courts.ca.gov/14400.htm](http://www.courts.ca.gov/14400.htm)) and map  
(<http://g.co/maps/cvdq8>)
  - tribal justice systems  
(<http://www.courts.ca.gov/documents/TribalJusticeSystemRU.pdf>)
4. Focus on Domestic Violence: recognition and enforcement of protective orders
  - *Statewide Needs Assessment*. This assessment informs the work of the forum as it implements solutions identified in the California reports relating to domestic violence, sexual assault, stalking, and teen dating violence in Native American communities ([www.courts.ca.gov/8117.htm](http://www.courts.ca.gov/8117.htm));
  - *California Courts Protective Order Registry*. By sharing information on restraining and protective orders, state courts and tribal courts are better able to protect the public, particularly victims of domestic violence, and avoid conflicting orders. ([www.courts.ca.gov/15574.htm](http://www.courts.ca.gov/15574.htm))
  - *Domestic Abuse Self-Help Tribal Project*. Assistance for litigants with obtaining restraining orders in tribal courts and state courts. In this project, a nonlawyer

# CALIFORNIA TRIBAL COURT–STATE COURT FORUM

works under the supervision of a reviewing attorney to assist the litigant. The attorney can supervise from any location through the use of technology, training, and review of the nonlawyer's work.

([www.courts.ca.gov/documents/FactSheetDASH.pdf](http://www.courts.ca.gov/documents/FactSheetDASH.pdf))

- *Efficient and Consistent Process*. Following effective local tribal and state court protocols, effective July 1, 2012, the Judicial Council adopted rule 5.386, which provides that state courts, when requested by a tribal court, must adopt a written procedure or local rule to permit the fax or electronic filing of any tribal court protective order that is entitled to be registered under Family Code section 6404. ([www.courts.ca.gov/documents/SPR11-53.pdf](http://www.courts.ca.gov/documents/SPR11-53.pdf))
- *Public Law 280 and Family Violence Curriculum for Judges* ([www.courts.ca.gov/documents/Tribal-FamViolenceCurriculum.pdf](http://www.courts.ca.gov/documents/Tribal-FamViolenceCurriculum.pdf))
- *Recognition and Enforcement of Tribal Protective Orders (Informational Brochure)* (<http://www.courts.ca.gov/documents/Tribal-DVProtectiveOrders.pdf>)
- *Tribal Advocates Curriculum* ([www.courts.ca.gov/documents/TribalAdvocacyCurriculum.pdf](http://www.courts.ca.gov/documents/TribalAdvocacyCurriculum.pdf))
- *Tribal Communities and Domestic Violence Judicial Benchguide* (<http://www.courts.ca.gov/documents/Tribal-DVBenchguide.pdf>)

5. Focus on Child Support: rule governing title IV-D case transfers to tribal court

Developed a rule proposal, which provides a consistent procedure for the discretionary transfer of Title IV-D child support cases from the state superior courts to tribal courts where there is concurrent jurisdiction over the matter in controversy. The Judicial Council adopted the rule proposal, effective January 1, 2014.

([www.courts.ca.gov/documents/ChildSupportProposalSPR13-17.pdf](http://www.courts.ca.gov/documents/ChildSupportProposalSPR13-17.pdf))

6. Focus on Civil Money Judgments: recognition and enforcement of tribal civil money judgments (SB 406)

Developed a legislative proposal, initially to apply to tribal civil judgments, which would provide a streamlined procedure for the recognition and enforcement of tribal court civil judgments. This proposal was adopted by the Judicial Council and is authored by Senator Noreen Evans.

The council report can be found at: [www.courts.ca.gov/documents/jc-20121214-itemG.pdf](http://www.courts.ca.gov/documents/jc-20121214-itemG.pdf). The original bill can be found at: [http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0401-0450/sb\\_406\\_bill\\_20130220\\_introduced.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_406_bill_20130220_introduced.pdf)

# CALIFORNIA TRIBAL COURT-STATE COURT FORUM

This bill has since been amended to apply only to civil money judgments. The Senate Judiciary Committee passed the bill 33 to 0 on January 14, 2014. The bill can be found at:

[http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0401-0450/sb\\_406\\_bill\\_20140106\\_amended\\_sen\\_v98.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_406_bill_20140106_amended_sen_v98.pdf)

## 7. Focus on Elder Abuse and Protective Proceedings

The forum initiated a joint working group with the Probate and Mental Health Advisory Committee to identify tribal/state issues relating to elder abuse and protective proceedings. This working group reviewed the California Law Revision Commission's (CLRC) recommendation that California adopt a modified version of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA). Working in coordination with the Policy and Coordination Liaison Committee and the Office of Governmental Affairs, the forum submitted legislative language to CLRC to address issues involving conservatorships for members of Indian tribes located California. As a result, the CLRC-sponsored legislation, the California Conservatorship Jurisdiction Act (SB 940), incorporates the forum's recommended revisions, and if adopted, will codify a modified version of the UAGPPJA in California. The bill can be found at:

[http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0901-0950/sb\\_940\\_bill\\_20140204\\_introduced.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0901-0950/sb_940_bill_20140204_introduced.pdf)

## 8. Focus on Juvenile Cases: rule proposals, legislative proposals, and legislative reports

- Appeals: developed a rule proposal to revise the rule governing sending the record in juvenile appeals to clarify that, if an Indian tribe has intervened in a case, a copy of the record of that case must be sent to that tribe. The Judicial Council adopted the rule proposal, effective January 1, 2013.  
([www.courts.ca.gov/documents/jc-20120228-itemA3.pdf](http://www.courts.ca.gov/documents/jc-20120228-itemA3.pdf))
- Access to Records (AB 1618): developed a legislative proposal to amend Welfare and Institutions Code section 827 to share juvenile records between tribal and state courts. This proposal was adopted by the Judicial Council and is authored by Assemblymember Wesley Chesbro. The bill can be found at:  
[http://leginfo.ca.gov/pub/13-14/bill/asm/ab\\_1601-1650/ab\\_1618\\_bill\\_20140206\\_introduced.htm](http://leginfo.ca.gov/pub/13-14/bill/asm/ab_1601-1650/ab_1618_bill_20140206_introduced.htm)
- Psychotropic medication: recommended a rule proposal to provide notice to tribes in juvenile cases where psychotropic medication is being considered.  
([www.courts.ca.gov/documents/SPR13-18.pdf](http://www.courts.ca.gov/documents/SPR13-18.pdf))
- Tribal Customary Adoption: Provided expertise in the preparation of the statutorily mandated report on tribal customary adoption from the Judicial Council to the State Legislature.  
([www.courts.ca.gov/documents/lr-Tribal-Customary-Adoption-Report\\_123112.pdf](http://www.courts.ca.gov/documents/lr-Tribal-Customary-Adoption-Report_123112.pdf))

# CALIFORNIA TRIBAL COURT-STATE COURT FORUM

## **Cross-Cultural Court Exchanges**

The forum has planned a series of local tribal court/state court exchanges to both model the collaborative relationships among tribal and state court judges at a local level and foster partnerships among tribal and non-tribal agencies and service providers. Through these exchanges, which are judicially-convened on tribal lands, participants identify areas of mutual concern, new ways of working together, and coordinated approaches to enforcing tribal and state court orders. Since no court order is self-executing, these exchanges serve to support both state and tribal courts by ensuring that those who are providing court-connected services are working together to meet the needs of their tribal communities regardless of whether citizens walk through the tribal or state courthouse doors.

Forum members, Judge Claudette White, Chief Judge of the Quechan Tribal Court, and Judge Juan Ulloa, Judge of the Superior Court of Imperial County co-hosted the first exchange. Forum members, Judge Abby Abinanti, Chief Judge of the Yurok Tribal Court and Judge Christopher G. Wilson co-hosted the second exchange at Yurok. Judge Richard C. Blake and Judge Christopher G. Wilson cohosted the third exchange at Hoopa.

# CALIFORNIA TRIBAL COURT–STATE COURT FORUM

May 2015

## Educational Activities

### Background

With grant funding, the California Judicial Council staffs the California Tribal Court–State Court Forum, a coalition of tribal and state court judges who come together as equal partners to address issues common to both 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. As an advisory committee to the California Judicial Council, 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 overlaps.

The forum is comprised of 30 members—28 judges, 1 former judge, 1 volunteer judge (retired), and 1 non-judicial member. The members of the forum include 13 tribal court judges, nominated by their tribal leadership, representing 16 of the 23 tribal courts currently operating in California; the director of the California Attorney General’s Office of Native American Affairs; the tribal advisor of the California Governor; and 14 state court judicial officers, including the chairs or their designees of the California Judicial Council’s Family and Juvenile Law Advisory Committee, Access and Fairness Advisory Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Probate and Mental Health Advisory Committee, and Traffic Advisory Committee, representatives of the local courts in counties where many of the tribal courts are situated, and a retired judge.

In response to the forum’s recommendations to revise judicial benchguides and expand judicial education programming materials to include information on federal Indian law and the interjurisdictional issues that face tribal and state courts, the state judicial branch applied for grant funding to develop curricula for judges on federal Indian law as it applies to all civil and criminal cases, provide training, and post educational resources. This has resulted in a number of informative educational programs and projects:

### Educational Programs: In-Person Events

- On June 17, 2011, convened educational sessions for judges on the History of California Indians and Dynamics of Domestic Violence in Native Communities, Structure of Tribal Governments, Tribal Court Development in California, and Models of Tribal Court State Court Collaboration.

## CALIFORNIA TRIBAL COURT-STATE COURT FORUM

- On October 14, 2011, addressed the California Indian Law Association Conference on the work of the forum and the legislative proposal to recognize and enforce tribal civil orders.
- On October 25, 2011, addressed the National American Indian Judges Association Conference on the work of the forum and the electronic noticing initiative.
- In December, 2011, conducted five sessions at the annual Beyond the Bench Conference:
  - *Tribal Court Live: Understanding How Tribal Courts Work and How to Work With Them*  
This mock trial led by Chief Judge Claudette White of the Quechan Tribal Court involved a marital dissolution case and explored issues of child custody, division of property, and protective orders. It examined some of the jurisdictional issues that may arise in tribal court and between tribal and state courts and how best to address and resolve them.
  - *Tribal Customary Adoption: Lessons Learned*  
This session discussed experiences in implementing California's tribal customary adoption law since it went into effect on July 1, 2010. Panelists included participants in a tribal customary adoption case in San Francisco that recently finalized. We heard perspectives on tribal customary adoption (TCA) from the tribal attorney, county counsel, minor's attorney, social worker, and the attorney for the adoptive parents, and the panelists discussed the challenges they faced in implementing TCA as a permanent plan.
  - *Recognition and Enforcement of Tribal Protective Orders*  
In this session, tribal and state court judges discussed jurisdiction on tribal lands and in tribal court, federal and state law concerning enforcement and recognition of tribal court protective orders, existing procedures for the mutual recognition and enforcement of protective orders, and proposed changes to the California Rules of Court.
  - *Child Support and Tribal Communities: Myths and Realities*  
With the growing number of tribal courts, tribal TANF agencies, tribal child support agencies, and the growth of the 107 recognized tribes in California as major employers, tribal/state court jurisdiction in general and child support matters in particular have become an emerging area of the law affecting many families in California. This session brings together a tribal judge, a local child support attorney, and the State Department of Child Support Services Tribal Liaison for a discussion of where we are jurisdictionally and collaboratively, and where we hope to be in the future.
  - *ICWA for Minors' and Parents' Attorneys*  
The Indian Child Welfare Act (ICWA) establishes unique procedural and substantive requirements for dependency proceedings involving Indian children. Although most of the responsibility for complying with the requirements of ICWA fall to the child welfare agency and the courts, appointed counsel for minors and parents have an important role

## CALIFORNIA TRIBAL COURT-STATE COURT FORUM

to play as well. Learn how to use ICWA to advance your clients' interests and understand the role that you as counsel play in protecting your clients' rights under ICWA.

- On December 14, 2011, participated in the Leadership Forum convened by the state judicial branch. Chief Justice Tani G. Cantil-Sakauye, presiding judges and court executive officers, and members of the Judicial Council's Family and Juvenile Law Advisory Committee, the Collaborative Justice Advisory Committee, the Domestic Violence Task Force were among the attendees. This event offered an opportunity for tribal and state leaders to meet, forge relationships, and learn from one another. The Leadership Forum identified concrete tools and collaborative strategies to respond to the needs of those most vulnerable in the current economic climate: foster children and their families; families struggling with homelessness and poverty, mental illness, substance abuse, divorce, and custody issues; the self-represented; communities dealing with gangs and other issues of violence; and those reentering communities and families, such as returning veterans or offenders under community supervision or parole.
- On June 18, 2012, participated in a plenary panel at the California rural judges' conference, the "Cow County Institute," addressing assessments of lethality and risk in cases involving domestic violence.
- On August 30, 2012, presented an overview of the forum's activities to the California Judicial Council at its issues meeting.
- On September 14, 2012, presented a workshop, entitled Public Safety Crisis in Indian Country: What You Can Do? at the California Partnership to End Domestic Violence Conference in San Diego.
- On September 20, 2012, presented on ICWA Best Practices and Court Improvement from a Government to Government Prospective and participants, who were tribal and state court judges, discussed current ICWA practices and potential solutions to current issues.
- On October 8-9, 2012, in collaboration with the National Judicial College, convened a two-day judicial symposium hosted by the Shingle Springs Band of Miwok Indians Rancheria. Approximately 50 tribal and state court judges participated.
- On December 5, 2012, participated in the Tribal-State Court Collaboration working group meeting convened by the Tribal Law and Policy Institute as part of the 13th National Indian Nations Conference: Justice for Victims of Crime at the Agua Caliente Reservation.
- On January 16, 2013, met with legal service providers to share information about serving tribal communities.
- On September 13, 2013, convened a cross-cultural court exchange on Hoopa Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- October 2, 2013, presented to approximately 60 law students on tribal/state collaboration and the work of the forum at the University of San Francisco Law School



## CALIFORNIA TRIBAL COURT-STATE COURT FORUM

- On October 10, 2013, participated on a panel to share information on effective tribal/state collaboration at Stanford University.
- On October 11, 2013, presented on the work of the forum and staff also presented a one day course on developing a tribal court security and safety plan, focusing on security policies and procedures as well as technology designed to increase the safety of those who work in and use courts at the 44th National Tribal Judicial and Court Clerks' Conference organized by the National American Indian Court Judges Association.
- On October 13, 2013, presented an overview: a framework for understanding and working with Indians and tribes at the California State Bar and Legal Aid Association of California.
- On October 29, 2013, presented on effective tribal/state collaboration at the Michigan's Grand Traverse Region Tribal-State Judicial Forum.
- On November 14, 2013, presented on effective tribal/state collaboration at the Arizona Tribal-State Roundtable.
- On December 3, 2013, presented on tribal courts and child welfare at the annual Beyond the Bench Conference.
- On February 27, 2013, convened a cross-cultural court exchange on Quechan Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- On May 29, 2013, convened a cross-cultural court exchange on Yurok Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- On February 4, 2014, provided an overview of the work of the forum to the members of the Violence Against Women Education Project and invited the judicial members to attend the forum's educational program on March 4, 2014 in San Francisco.
- On March 4, 2014, the forum convened an educational symposium, attended by over 60 tribal and state court judges, law enforcement officers, forum members and others. Panel topics included: Access to Justice—Promoting Structural Reforms and Exploring Racial Identity; Child Welfare and Adoptive Couple v. Baby Girl 133 S.Ct. 2552 (2013) (Baby Girl Veronica Case); P.L. 280 and Domestic Violence; Tribal-State Collaborations in Civil, Criminal, and Family Cases; and the Tribal Law and Order Act.
- On March 6, 2014, presented on Improving Access to Tribal and State Courts in Domestic Violence Cases—Confronting Ethical Issues and Unveiling Differences at the Family Law and Self Represented Litigants Conference in San Francisco.
- On April 24, 2014, presented on effective tribal/state collaboration at the Alabama-Coushatta Tribe of Texas 4<sup>th</sup> Annual Judicial Symposium.
- On May 14-16, 2014, conducted two sessions at the Cow County Judges Conference in Rancho Cordova: (1) Jurisdiction on tribal lands and (2) Indian Child Welfare Act: updates and hot topics.

## CALIFORNIA TRIBAL COURT-STATE COURT FORUM

- On May 21, 2014, served as resource faculty during the session on Full Faith and Credit at the Domestic Violence Institute.
- On May 29, 2014, presented on tribal justice systems and inter-cooperation between tribal justice systems and the state courts in California at the Law and Society Association's Annual Conference Program: Law and Inequalities: Global and Local in Minneapolis, Minnesota.
- On July 15, 2014, convened a cross-cultural court exchange on Karuk Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- On August 5, 2014, provided an educational program, entitled Resolving Issues of Mutual Concern to Tribal and State Courts, which was held in the San Francisco office and broadcast to the Burbank and Sacramento offices. Topics: California's tribal communities, principles of tribal sovereignty, California's tribal courts, jurisdiction in Indian country, and the forum.
- On August 14, 2014, presented on effective tribal/state collaboration at the Mississippi Band of Choctaw Indians Tribal/State Forum.
- On September 12, 2014, convened a cross-cultural court exchange on Bishop Paiute Tribal lands to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence in the tribal community.
- December 5, 2014, education for the Los Angeles Superior Court. The training covered the California Indian history; the background to ICWA; ICWA legal requirements and challenges in California. There were 209 attorneys and 17 judicial officers in attendance. Ann Gilmour and Vida Castaneda were staff presenters at this training.
- February 26, 2015, Bay Area listening session convened by the California Department of Social Services in cooperation with the forum. Representatives listened to the community's concerns and issues affecting the urban Indian population.

### **Educational Projects: Curriculum and Benchguides**

- Developed curriculum on federal Indian law relating to civil and criminal jurisdiction in a Public Law 280 state for state court judges, with updates to be drafted as needed; this curriculum has been used to teach workshops at Beyond the Bench, the Cow County Rural Judges Institute, and a forum webinar. To view the curricula and webinar online, visit [www.courts.ca.gov/8710.htm](http://www.courts.ca.gov/8710.htm) and [www.courts.ca.gov/14851.htm](http://www.courts.ca.gov/14851.htm).
- Developed and distributed training video for judges with courtroom and noncourtroom scenarios that raise questions about cross-jurisdictional issues between state and tribal courts in a range of areas, including domestic violence. To view these training videos, see the following links:  
[Guardianship](#)  
[Judge to Judge Communication](#)  
[Juvenile Court Jurisdiction](#)

[Traffic Stop Jurisdiction](#)

[Tribal Court Trespass](#)

[Tribal Protective Order, Court](#)

[Tribal Protective Order, Street](#)

- Completed curriculum for tribal advocates on the subject of domestic violence and how to navigate the state court system.  
[www.courts.ca.gov/documents/TribalAdvocacyCurriculum.pdf](http://www.courts.ca.gov/documents/TribalAdvocacyCurriculum.pdf)
- Completed revisions to the Child Support Benchguide and the Child Custody and Visitation Benchguide and completed new chapter for the revised Native American Resource Guide.
- Published Judges Guide to Tribal Communities and Domestic Violence.  
[www.courts.ca.gov/documents/Tribal-DVBenchguide.pdf](http://www.courts.ca.gov/documents/Tribal-DVBenchguide.pdf)
- Provided expertise in the preparation of the statutorily mandated report on tribal customary adoption from the Judicial Council to the State Legislature. [www.courts.ca.gov/documents/lr-Tribal-Customary-Adoption-Report\\_123112.pdf](http://www.courts.ca.gov/documents/lr-Tribal-Customary-Adoption-Report_123112.pdf)
- Incorporated federal Indian law into the curriculum for judges on *nuts and bolts* course and the *ethics and self-represented litigants in domestic violence cases*.
- Completed Judicial Toolkit on federal Indian law. It assists new and experienced judges in cases in general and specifically 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.  
<http://www.courts.ca.gov/27002.htm>
- Completed Judicial Toolkit on federal Indian law- domestic violence.  
<http://www.courts.ca.gov/27542.htm>
- Published Tribal Elder Abuse Benchguide.

## Ongoing Educational Activities

- Provide local educational assistance focused on tribal-state-county collaboration relating to domestic violence, sexual assault, stalking, teen dating violence, and human trafficking. This project responds to a court's request for assistance, such as faculty/facilitator, fees associated with registration or travel costs to serve as faculty/facilitator, educational materials and the copying of such materials, services to engage tribal participation in the coordinated court-community response to domestic violence, sexual assault, and human trafficking, assistance with convening a cross-court educational exchange, or other type of educational assistance that focuses on tribal-state collaboration.

## CALIFORNIA TRIBAL COURT-STATE COURT FORUM

- Provide local technical assistance focused on tribal-state-county collaboration relating to domestic violence, sexual assault, stalking, teen dating violence, and human trafficking. This project responds to a court's request for assistance, such as accessing Judicial Council court forms, accessing the California Courts Protective Order Registry, attending state judicial branch sponsored educational programs or other tribal-state collaborative programs, receiving scholarships to pay for travel expenses associated with attending educational programs, and receiving continuing legal education for attendance.
- Update the judicial benchguides, as needed, to incorporate issues that arise between tribal and state courts. These benchguides cover a wide range of topics, including domestic violence.
- Update, as needed, the tribal/state programs web page, which serves as a clearinghouse of resources for local courts on (1) forum activities; (2) ICWA services; (3) family violence; (4) tribal communities of California; (5) tribal justice systems, including an up-to-date directory of tribal courts searchable by tribal court or county name; and (6) tribal/state collaborations nationally and in California. (See the tribal/state programs page on the California Courts website at [www.courts.ca.gov/programs-tribal.htm](http://www.courts.ca.gov/programs-tribal.htm).)
- Advise on ICWA training, provided locally and regionally, to courts that request training (grant funding to provide up to 14 sessions per year).

### **For More Information**

Contact: Jenny Walter, Counsel and Supervising Attorney, Tribal Court-State Court Forum, 415-865-7687, [jennifer.walter@jud.ca.gov](mailto:jennifer.walter@jud.ca.gov)

**Tribal Court–State Court Forum Roster  
(Effective September 15, 2015)**

**Hon. Richard C. Blake, Cochair**  
(Hoopa, Yurok, Karuk)  
Chief Judge of the Hoopa Valley Tribal Court  
Chief Judge of the Smith River Rancheria  
Chief Judge of the Redding Rancheria  
Tribal Court

**Hon. Dennis M. Perluss, Cochair**  
Presiding Justice of the Court of Appeal,  
Second Appellate District, Division Seven

**Hon. Abby Abinanti**  
(Yurok)  
Chief Judge of the Yurok Tribal Court

**Hon. April E. Attebury**  
(Karuk)  
Judge and Court Administrator of the  
Karuk Tribal Court

**Ms. Jacqueline Davenport**  
Assistant Court Executive Officer  
Superior Court of California, County of  
El Dorado

**Hon. Gail Dekreon**  
Judge of the Superior Court of California,  
County of San Francisco

**Hon. Kimberly A. Gaab**  
Assistant Presiding Judge of the  
Superior Court of California, County of Fresno

**Hon. Michael Golden**  
Chief Judge of the Morongo Tribal Court

**Hon. Cynthia Gomez**  
(Tule River Yokut Tribe)  
Tribal Advisor of the Office of Governor  
Edmund G. Brown, Jr.

**Mr. Olin Jones**  
(The Chickasaw Nation of Oklahoma)  
Director of the Office of Native American  
Affairs, California Attorney General’s Office

**Hon. Mark A. Juhas**  
Judge of the Superior Court of California,  
County of Los Angeles

**Hon. Suzanne N. Kingsbury**  
Presiding Judge of the Superior Court of  
California, County of El Dorado

**Hon. William Kockenmeister**  
Chief Judge of the Bishop Paiute Indian  
Tribal Court  
Chief Judge of the Washoe Tribal Court

**Hon. Anthony Lee**  
(St. Regis Mohawk Tribe)  
Chief Judge of the San Manuel Tribal Court

**Hon. John L. Madigan**  
Chief Judge of the Intertribal Court of  
Southern California

**Hon. Lester J. Marston**  
(Chiricahua and Cahuilla)  
Chief Judge of the Blue Lake  
Rancheria Tribal Court

**Tribal Court–State Court Forum Roster  
(Effective September 15, 2015)**

**Hon. David E. Nelson**

Presiding Judge of the Superior Court of  
California, County of Mendocino

**Hon. Christopher G. Wilson**

Judge of the Superior Court of California,  
County of Humboldt

**Hon. Mark Radoff**

Chief Judge  
Chemehuevi Tribal Court

**Hon. Joseph J. Wiseman**

Chief Judge of the Dry Creek Rancheria Band  
of Pomo Indians

**Hon. John H. Sugiyama**

Judge of the Superior Court of California,  
County of Contra Costa

**Hon. Sarah S. Works**

Chief Judge of the Trinidad Rancheria  
Tribal Court

**Hon. Allen H. Sumner**

Judge of the Superior Court of California,  
County of Sacramento

**Hon. Daniel Zeke Zeidler**

Judge of the Superior Court of California,  
County of Los Angeles

**Hon. Sunshine S. Sykes**

Judge of the Superior Court of California,  
County of Riverside

**Hon. Juan Ulloa**

Judge of the Superior Court of California,  
County of Imperial

**Hon. Claudette C. White**

(Quechan)  
Chief Judge of the Quechan Tribal Court

**Hon. Christine Williams**

(Yurok)  
Chief Judge of the Shingle Springs Tribal Court

## Forum Meeting Schedule

2015–2017

Date	Deadline for Materials
<b>1. June 11, 2015 (in-person)</b>	<b>June 1, 2015</b>
2. August 20, 2015	August 10, 2015
3. October 8, 2015	September 28, 2015
4. December 17, 2015	December 7, 2015
5. February 11, 2016	February 1, 2016
6. April 14, 2016	April 4, 2016
<b>7. June 9, 2016 (in-person) tentative</b>	<b>May 30, 2016 (in-person)</b>
8. August 18, 2016	August 8, 2016
9. October 6, 2016	September 26, 2016
10. December 15, 2016	December 5, 2016
11. February 16, 2017	February 6, 2017
12. April 13, 2017	April 3, 2017
<b>13. June 8, 2017 (in-person) tentative</b>	<b>May 28, 2017 (in-person)</b>
14. August 17, 2017	August 7, 2017
15. October 12, 2017	October 2, 2017
16. December 14, 2017	December 4, 2017



JUDICIAL COUNCIL  
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## FACT SHEET

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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](http://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](http://www.courts.ca.gov/3067.htm)

**Clearinghouse of Resources**

- California's Tribal Communities  
[www.courts.ca.gov/3066.htm](http://www.courts.ca.gov/3066.htm)
- Tribal Justice Systems  
Resources on tribal courts and for tribal courts  
[www.courts.ca.gov/3064.htm](http://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](http://www.courts.ca.gov/14851.htm)
- Professional Resources
  - California Tribal Courts Directory ([www.courts.ca.gov/14400.htm](http://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.

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*Additional resources:*

[www.courts.ca.gov/programs-tribal.htm](http://www.courts.ca.gov/programs-tribal.htm)

## Tribal/State Programs

The Tribal/State Programs is a unit of the Center for Families, Children & the Courts. With federal and state funding, the Tribal-State Programs provide legal services and technical assistance to local courts on inter-jurisdictional issues across all case types 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.

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### TRIBAL COURT-STATE COURT FORUM

Tribal and state court judges come together as equal partners to address areas of mutual concern to the state and tribal justice systems in California. A tribal court judge or justice together with a state court judge or justice both co-chair the forum. [More](#)

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### CALIFORNIA TRIBAL COMMUNITIES

According to most recent census data, California is home to more people of Native American/Alaska Native heritage in urban and rural areas than any other state in the country. There are approximately 110 federally recognized tribes in California and 78 entities petitioning for recognition. Federally recognized tribes have a unique government to government relationship with local, state and federal entities, and are recognized as sovereign nations. Tribes can create their own laws, governmental structure and enrollment or membership rules for the land and citizens of their nation. [More](#).

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### INDIAN CHILD WELFARE ACT (ICWA)

The Indian Child Welfare Act (ICWA) (25 U.S.C. §§ 1901 et seq.) is federal legislation, which establishes minimum federal standards for state court child welfare proceedings and many other "child custody" proceedings involving Indian children. In 2006, with the passage of California Senate Bill 678, effective January 1, 2007, codified many of these [requirements](#) into the Welfare & Institutions Code, Family Code, and Probate Code that govern Indian child custody proceedings. This legislation affects California dependency, delinquency, guardianship and some family proceedings involving Indian children.

#### What's New

Check out ICWA fact sheets:

[Adoptive Couple v. Baby Girl \(2013\) 133 S. Ct. 2552 and Its Application Under California Law Delinquency, Native American Identification and ICWA Tribal Participation in State Court Proceedings Governed by ICWA](#)

[More](#).

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### FAMILY VIOLENCE

Family violence occurs throughout every community, but for tribes there may be crossover and jurisdictional issues that are important to understand when working with Native American communities. Areas of family violence addressed in our unit include: domestic violence, dating violence, sexual assault, trafficking, elder abuse and stalking. [More](#).

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### TRIBAL JUSTICE SYSTEMS

California's tribal justice systems may handle an array of different case types, may function similarly to a state court or traditional customs of the tribe and create their own legal codes. Currently there are 22 tribal courts located in California that serve approximately 40 tribes. [More](#).

# 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.<sup>1</sup> Among counties in the United States, Los Angeles County (CA) had the highest population of AI/AN alone in 2000 (76,988).<sup>2</sup>
- In 2010, the majority of the AI/AN-alone population (67 percent) and the majority of the AI/AN-in-combination<sup>3</sup> population (92 percent) lived outside of tribal areas.<sup>4</sup>
- 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

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<sup>1</sup> 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).

<sup>2</sup> U.S. Census Bureau, Census 2000, Summary File 2.

<sup>3</sup> 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.

<sup>4</sup> Norris, et al, *supra*, p. 12, figure 6.

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

### 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.<sup>6</sup>
- 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](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.<sup>7</sup>
- 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).<sup>8</sup> 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.<sup>9</sup>
- 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.<sup>10</sup>
- Cherokee is the largest tribal population in California (approximately 18 percent), followed by Apache (6 percent), Navajo (5 percent), and Choctaw (5 percent).<sup>11</sup>

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<sup>5</sup> 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.

<sup>6</sup> Norris, et al, *supra*, p. 7, table 2.

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

<sup>8</sup> 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](http://www.bia.gov/idc/groups/xois/documents/text/idc002652.pdf) (as of July 8, 2011).

<sup>9</sup> 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](http://www.census.gov/population/www/cen2000/briefs/phc-t18/tables/tab019.pdf) (as of July 8, 2011).

<sup>10</sup> Norris, et al, *supra*, p. 7, table 2.

<sup>11</sup> 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](http://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).<sup>12</sup>
- 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).<sup>13</sup>

**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).<sup>14</sup>
- 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).<sup>15</sup>
- The median income for all California households is \$47,493, whereas the median income for the AI/AN-alone population is \$36,547.<sup>16</sup>
- 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.

<sup>12</sup> 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](http://www.census.gov/population/www/cen2000/briefs/phc-t14/tables/tab09.pdf) (as of July 8, 2011).

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

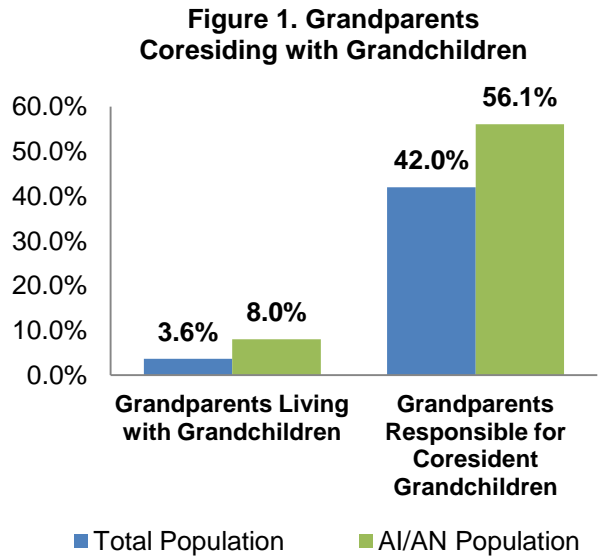
<sup>14</sup> U.S. Census Bureau's American FactFinder, Census 2000, Summary File 2 and Summary File 4, "Census 2000 Demographic Profile Highlights: Selected Population Group: American Indian and Alaska Native alone."

<sup>15</sup> *Ibid*

<sup>16</sup> *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).<sup>17</sup>
- The AI/AN population has a higher average household size (3.06 persons) than does the U.S. population as a whole (2.59).<sup>18</sup>
- 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.<sup>19</sup>
- 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.<sup>20</sup>



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

<sup>18</sup> *Ibid.*

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

<sup>20</sup> *Ibid.*

## **Judicial Council of California**

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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.*



# CALIFORNIA TRIBAL COURT–STATE COURT FORUM

January 2012

## Native American Statistical Abstract: Violence and Victimization

### 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

It is worth noting at the outset that while there is a great deal of research related to domestic violence and violence against women, it is often difficult to obtain statistics related to the victimization of tribal women specifically.

Very little data is available regarding tribal populations in California, and less is of recent vintage. Due to the small size of the AI/AN population (less than 2 percent of the entire U.S. population), national studies tend to obscure intertribal diversity. Finally, a historic lack of trust of authorities may often result in underreporting to both law enforcement and social service agencies, making them less reliable sources of data.

Given these limitations, one must bear in mind that the information that is available likely underestimates the scope of the problems faced by tribal populations, especially those residing in Indian Country:

In addition to underestimating the scale of sexual violence against Indigenous women, the limited data available does not give a comprehensive picture. For example, no statistics exist specifically on sexual violence in Indian Country and available data is more likely to represent urban than rural areas.<sup>1</sup>

### General Trends<sup>2</sup>

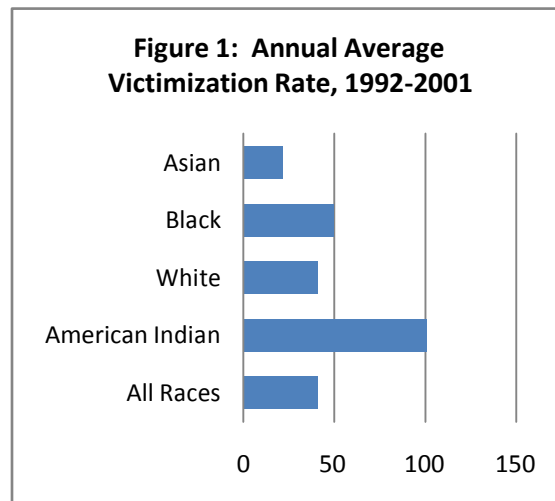
- Rates of violent victimization<sup>3</sup> for both males and females are higher among American Indians than for any other race.

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<sup>1</sup> Amnesty International, *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA* (2007), p. 4, <http://www.amnesty.org/en/library/asset/AMR51/035/2007/en/cbd28fa9-d3ad-11dd-a329-2f46302a8cc6/amr510352007en.pdf> (as of Aug. 17, 2011).

<sup>2</sup> Unless otherwise noted, the tables and charts in this section were created using data from Steven W. Perry, Bureau of Justice Statistics, *American Indians and Crime: A BJS Statistical Profile, 1992–2002* (NCJ 203097, Dec. 2004).

- American Indians experienced a per capita rate of violence twice that of the U.S. resident population. On average, American Indians experienced an estimated 1 violent crime for every 10 AI/AN residents age 12 or older.
- The murder rate among American Indians is 7 per 100,000, a rate similar to that found among the general population, but significantly lower than that of the black population.
- The violent crime victimization rate in every age group below age 35 was significantly higher for American Indians than for all races combined. Among American Indians age 25 to 34, the rate of violent crime victimizations was more than 2½ times the rate for persons of all races in the same age group.



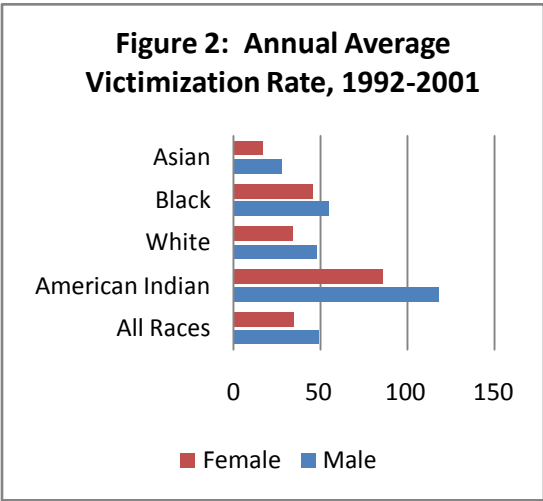
- Among persons in the 55 or older category, the American Indian victimization rate was 22 per 1,000, versus the overall rate of 8 per 1,000.
- Note that the average annual victimization rate reported through 2001 has decreased substantially in younger (12–44) age groups, but stayed the same or increased slightly among older groups, compared to the rates reported from 1992–1996. During the same period of time, these rates were decreasing across the board for all other groups.

1992–1996 <sup>4</sup>			1992–2001		
Age	All races	AI/AN	Age	All races	AI/AN
55/older	9	14	55/older	8	22
45–54	27	43	45–54	24	45
35–44	44	124	35–44	36	93
25–34	61	145	25–34	50	140
18–24	100	232	18–24	84	155
12–17	116	171	12–17	94	146

- The rate of violent victimization in each age group is higher among American Indians than that for all races combined. The victimization rate among American Indian males was 118 per 1,000 males age 12 or older, more than double that found among all males (49 per 1,000) ages 12 or older.

<sup>3</sup> Victimization rates measure the occurrence of victimizations among a specified population group. For personal crimes, this is based on the number of victimizations per 1,000 residents age 12 or older.

<sup>4</sup> Lawrence A. Greenfeld and Steven K. Smith, Bureau of Justice Statistics, *American Indians and Crime* (NCJ 173386, Feb. 1999).



- The violent victimization rate for American Indian females during this period (1992–2002) was 86 per 1,000 AI/AN females, a rate higher than that found among white females (34 per 1,000) or black females (46 per 1,000).
- Rates of violent victimization for both males and females are higher among American Indians than for any other race. The rate of violent crime experienced by American Indian women is nearly 50 percent higher than that reported by black males.

- At least 66 percent of the violent crimes experienced by American Indian victims are committed by persons not of the same race, a substantially higher rate of interracial violence than that experienced by white or black victims; 9 percent of offenders were described by the victim as black, 34 percent were described as American Indian, and the majority (57 percent) were described as white. This is similar to the experience of Asian/Pacific Islanders, who also suffer a substantially higher rate of interracial violence than white or black victims.
- American Indian victims of violence were more likely than all victims to report an offender who was under the influence of alcohol at the time of the crime. Overall, about 62 percent of American Indian victims experienced violence by an offender using alcohol, compared to the national average of 42 percent.
- Women of all races are more likely to be assaulted by a known person. American Indian/Alaskan Native women are more likely to be assaulted by intimate partners or family members, and less likely by strangers, than women of other races.

**Table 2. Average Annual Percentage of Assault Victimization Against Females by Race and Perceived Relationship Status of Offender(s), NCVS 1992–2005<sup>5</sup>**

	Intimate	Other Family	Other Known	Stranger
Total Population	26%	9%	34%	30%
<b>AI/AN</b>	<b>28</b>	<b>14</b>	<b>35</b>	<b>23</b>
White	26	9	35	30
African American	26	9	36	29
Asian American	17	11	25	47

<sup>5</sup> Ronet Bachman, Heather Zaykowski, Rachel Kallmyer, Margarita Poteyeva, and Christina Lanier, U.S. Department of Justice, *Violence Against American Indian and Alaska Native Women and the Criminal Justice Response: What Is Known* (Aug. 2008), p. 50. The –NCVSI (noted in the table heading) is the National Crime Victimization Survey. This report is an excellent review of the research regarding violence against AI/AN women and is highly recommended.

## Rape and Sexual Assault

- Federal statistics show that AI/AN women are 2.5 times more likely to be raped or sexually assaulted than women in the U.S. in general and more than one in three will be raped during their lifetimes. In 86 percent of reported rapes or sexual assaults on Native women, the perpetrators are non-Native; this disparity is not typical of any other ethnicity since perpetrators are usually found to be the same race as the victim.<sup>6</sup>
- A U.S. Department of Justice study on violence against women concluded that 34 percent of American Indian and Alaska Native women—more than one in three—will be raped during their lifetimes; the comparable figure for women as a whole in the United States is less than one in five.<sup>7</sup>
- In a 2002 study researchers interviewed 110 American Indian women at two urban and three rural American Indian agencies in California. They found that 80 percent of respondents had experienced a sexual assault in their lifetimes—26 percent had experienced forced sex in their lifetimes and 32 percent had experienced either a physical and/or sexual victimization in the past year.<sup>8</sup>

## Domestic Violence and Stalking

- Among violence victims of all races, about 11 percent of victims of intimate partners and 5 percent of victims of other family members report the offender to have been of a different race. However, among American Indian victims of violence, 75 percent of the intimate victimizations and 25 percent of the family victimizations involved an offender of a different race.<sup>9</sup>
- In a report published by the Centers for Disease Control (CDC) in 2008, 39% of American Indian women surveyed reported some form of intimate partner violence in their lifetimes. This rate is higher than the rate reported by any other race/ethnic group.<sup>10</sup>
- 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. Also (according to the June 2001 National Crime Victimization Survey (NCVS) on –Injuries from Violent Crime, 1992–1998), persons victimized by an intimate partner were more likely than those victimized by acquaintances or strangers to be injured (48 percent intimate partner, 32 percent family member, 20 percent stranger).

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<sup>6</sup> Perry, *supra*.

<sup>7</sup> Patricia Tjaden and Nancy Thoennes, *Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey* (National Institute of Justice and the Centers for Disease Control and Prevention, NCJ 183781, Nov. 2000).

<sup>8</sup> E. Zahnd, S. Holtby, D. Klein, and C. McCain, *American Indian Women: Preventing Violence and Drinking Project Final Report* (National Institute on Alcohol Abuse and Alcoholism and the Office for Research on Women's Health, 2002), cited in Bachman et al., *supra*, at p. 55.

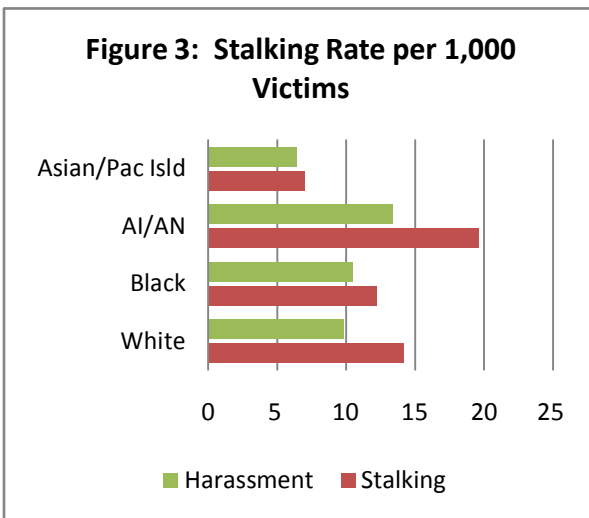
<sup>9</sup> –Intimate victimizations and –intimate violence refer to victimizations involving current and former spouses, boyfriends, and girlfriends. –Family victimizations and –family violence refer to victimizations involving parents, siblings and other relatives.

<sup>10</sup> U.S. Center for Disease Control, Adverse Health Conditions and Health Risk Behaviors Associated with Intimate Partner Violence — United States (2005) MMWR Weekly February 8, 2008 / 57(05);113-117.

**Table 3. Average Annual Percentage of Assault Victimizations Against *Females* by Race, in Which the Victim Sustained Injuries, NCVS 1992–2005<sup>11</sup>**

	Percent of Victimizations in Which Victim Was Injured	Percent of Injuries Requiring Medical Care
Total Population	61%	41%
<b>AI/AN</b>	<b>70%</b>	<b>56%</b>
White	60%	38%
African American	63%	49%
Asian American	53%	53%

- Eighty-nine percent of Native American women who reported intimate violence had suffered injuries from the violence, and 73 percent reported moderate or severe injuries, with nearly one in four (22 percent) reporting more than 20 different injury incidents. The health-related costs of violent victimization by intimates have been calculated to exceed \$5.8 billion each year.<sup>12</sup>



- The historical context of relations with government agencies may make it far less likely that AI/AN women will report sexual or intimate violence, for fear of revictimization by justice agencies.<sup>13</sup>
- 17 percent of American Indian and Alaska Native women are stalked in their lifetimes, compared to 8.2 percent of white women, 6.5 percent of black women, and 4.5 percent of Asian/Pacific Islander women.<sup>14</sup>

- The Tribal Law and Order Act of 2010 includes a requirement that protective orders issued by tribal courts be given full faith and credit by state and local agencies. In California, however, significant barriers remain. For example, tribal orders are not entered into the California Courts Protective Order Registry (CCPOR), and must be registered as foreign orders in order to be entered in CLETS (the California Law Enforcement Telecommunications System).

<sup>11</sup> Bachman, et al, *supra*, p. 49.

<sup>12</sup> Costs of Intimate Partner Violence in the United States, U.S. Centers for Disease Control and Prevention, 2003. [http://www.cdc.gov/violenceprevention/pub/IPV\\_cost.html](http://www.cdc.gov/violenceprevention/pub/IPV_cost.html) (as of Sept. 28, 2011).

<sup>13</sup> Amnesty International, *supra*, p. 49.

<sup>14</sup> Patricia Tjaden and Nancy Thoennes, *Stalking in America: Findings from the National Violence Against Women Survey*, Research in Brief (National Institute of Justice and the Centers for Disease Control and Prevention, NCJ 169592, Apr. 1998), <http://www.ncjrs.gov/pdffiles/169592.pdf> (as of Aug. 18, 2011).

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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):<sup>1</sup>

- 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

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<sup>1</sup> [http://tloa.ncai.org/documentlibrary/2011/08/Talking\\_Circles\\_Report\\_Final\\_Jul11.pdf](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 Agencies<sup>2</sup> 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.<sup>3</sup>
- 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 officers<sup>4</sup>.
- 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 states<sup>5</sup>.

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<sup>2</sup> 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.

<sup>3</sup> Id.

<sup>4</sup> Four additional tribes are in the process of establishing law enforcement agencies.

<sup>5</sup> 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 – 2002<sup>6</sup>***

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.

<sup>6</sup> 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.<sup>7</sup> At this time, 7 California agencies have SLEC officers<sup>8</sup>.
- California tribes have access to the California Courts Protective Order Registry (CCPOR).

## **Tribal Courts<sup>9</sup>**

### *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.

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<sup>7</sup> 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).

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

<sup>9</sup> 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
<b>Any Tribal Court System</b>	<b>9 (10%)</b>	<b>180 (80%)</b>
<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

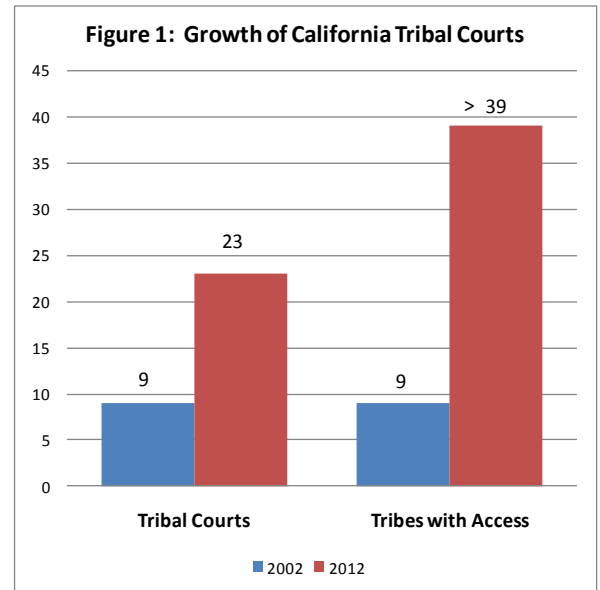
- In 2002, 9 tribes<sup>10</sup> of 89 participating California tribes (10 percent) reported having a tribal court, compared to 180 of 225 reporting (59 percent) of non-California tribes. About 84% of California’s reporting tribes relied solely on state courts for services.
- In 2012, 39 tribes of 109 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.

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<sup>10</sup> 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 22<sup>11</sup>. 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 courts<sup>12</sup>**

<p><b><u>Civil/Probate</u></b>            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 &amp; birth certificate changes            Probate</p>	<p><b><u>Administrative</u></b>            Building codes            Elections            Employment            Enrollment            Administrative procedures matters            Appeals from tribal ordinances</p> <p><b><u>Criminal</u></b>            Criminal offenses            Environmental offenses            Peace/security code violations            Nuisance            Torts            Traffic            Trespass</p>	<p><b><u>Family Law</u></b>            Dissolution of marriage            Domestic relations            Domestic violence restraining orders            Protection/Restraining orders</p> <p><b><u>Juvenile</u></b>            Juvenile delinquency            Juvenile wellness court            Truancy            Child abuse and neglect guardianships</p>
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<sup>11</sup> 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>

<sup>12</sup> 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)<sup>13</sup>

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.

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<sup>13</sup> 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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# CALIFORNIA TRIBAL COURT–STATE COURT FORUM

## Issue Statement One: Full Faith and Credit—Enforcement of Orders

While tribes are recognized as sovereign, they are not “states” for the purpose of the full faith and credit requirements of article IV of the U.S. Constitution. There is also general consensus—but no U.S. Supreme Court authority—that tribes are not covered by the federal full faith and credit statute (28 U.S.C. § 1738). There are, however, a number of specific federal and state laws that mandate full faith and credit for and between tribal and state courts in certain types of actions:

- The Indian Child Welfare Act (25 U.S.C. § 1911(d)), or ICWA, mandates full faith and credit for tribal court custody orders concerning Indian children. ICWA also addresses the issue of jurisdiction over child welfare proceedings involving Indian children.
- The Violence Against Women Act (18 U.S.C. § 2265) mandates full faith and credit for restraining and protective orders in domestic violence situations.
- The Child Support Enforcement Act (28 U.S.C. § 1738B) mandates full faith and credit for child support orders.
- California’s Uniform Child Custody Jurisdiction and Enforcement Act (Fam. Code, § 3400 et seq.) mandates full faith and credit for tribal child custody orders.

Where there is no specific statutory mandate for full faith and credit, the general rule is that tribal court orders are entitled to comity.

Although the Violence Against Women Act mandates full faith and credit as well as enforcement for protective orders, tribal courts currently have no mechanism for entering their protective orders into CLETS (California Law Enforcement Telecommunications System) or CARPOS (California Restraining and Protective Order System). Tribal advocates and tribal judges report problems in having tribal court orders of protection recognized and enforced.

Tribal court judges report cases where they have heard a civil matter fully litigated to judgment in tribal court, only to be unable to have the tribal court judgment recognized and enforced outside the reservation. They report that state court judges may not accord full faith and credit to tribal court judgments and may require the matter to be essentially relitigated in state court.



## Issue Statement Two: Traffic

Generally California motor vehicle registration and driver’s license requirements are not subject to enforcement against Indian tribal members on roads within their reservation because the California motor vehicle scheme is “civil/regulatory” rather than “criminal/prohibitory.” (See 89 Ops.Cal.Atty.Gen. 6 (2006).)

However, specific aspects of the overall scheme governing traffic, such as the prohibition against driving while under the influence, can fall into the criminal/prohibitory category. (See *State v. Barros* (1998) 957 P.2d 1095; *State v. Warden* (1995) 906 P.2d 133.)

Where a tribal court is exercising jurisdiction over traffic matters on the reservation, including the prohibition of driving under the influence, is there a mechanism for tribal court orders to be acknowledged within the state system? In particular, if a tribal court suspends an individual’s driver’s license subsequent to a finding of guilt for driving under the influence, can that suspension be given full faith and credit or otherwise recognized by the California Department of Motor Vehicles?

## Issue Statement Three: Trespass and Orders of Exclusion

As sovereign entities, tribes have the right to control who enters their tribal lands. In some cases, a tribe may specifically exclude certain individuals from their tribal lands. An order of “exclusion” can be among the remedies that a tribal government or tribal court uses against an individual found to have committed serious offenses to the community, including domestic violence on tribal lands.

Can—and will—local law enforcement assist in removing an individual trespassing on tribal lands?

In 80 Ops.Cal.Atty.Gen. 46 (1997), the Attorney General of California concluded that: [c]learly, under federal law (18 U.S.C. § 1162) California’s criminal statutes apply to Indian reservations in the state. Tribal code provisions and orders, on the other hand, do not constitute the criminal laws of the state and have no force and effect elsewhere within California. Such tribal code provisions and orders are not enforceable by a county sheriff either within or without the reservation.

Therefore, law enforcement may not enforce orders of exclusion made under a tribal code or ordinance. Only if the action in question meets all of the elements of trespass as defined under California law will a local law enforcement officer have authority to take action—and a tribal order of exclusion will seldom meet that standard.

## CALIFORNIA TRIBAL COURT–STATE COURT FORUM

### **Issue Statement: Child Custody and Issue Child Support**

Federal law contains certain mandates regarding full faith and credit for child support and custody orders. In particular, title 18 United States Code section 1738A requires states to give full faith and credit to child custody and visitation orders from another “state.” The definition of “state” in section 1738A does not include “tribe.” Title 18 United States Code section 1738B requires “states” to give full faith and credit to child support orders of another state. The definition of “state” in section 1738B includes “Indian country.”

Family Code section 3404 provides that a child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this part of the code (part 3, also known as the Uniform Child Custody Jurisdiction and Enforcement Act) must be recognized and enforced under chapter 3, commencing with section 3441.

Some tribes in the United States operate title IV-D child support programs; no California tribe currently operates such a program, although some tribes are in the process of starting one. Some tribes in California, however, are operating title IV-A TANF programs.

The most common issues that arise include having tribal custody and visitation orders recognized and enforced outside of tribal lands and having child support orders from a state court enforced on tribal lands.

### **Issue Statement: Warrants, Subpoenas, and Discovery**

As discussed throughout these materials, both federal and state law establish requirements for mutual recognition and between tribal and state courts reciprocal enforcement for certain types of final orders in some specific types of cases. In other areas, the principles of comity apply.

One area of concern raised by some tribal court judges is the cross-jurisdictional recognition and enforcement of other forms of court process, such as warrants and subpoenas. Can the forum develop a mechanism whereby tribal court processes also receive full faith and credit?

# CALIFORNIA TRIBAL COURT-STATE COURT FORUM

## Jurisdictional Issues in California Regarding Indians and Indian Country

### California Indian Tribes and Territory

California currently has approximately 110 federally recognized tribes,<sup>1</sup> with nearly 100 separate reservations or rancherias.<sup>2</sup> In addition there are currently 81 groups petitioning for federal recognition.<sup>3</sup> In the 2010 census roughly 725,000 California citizens identified as American Indian or Alaska Native either alone or in combination with other ethnicities.<sup>4</sup> This represents roughly 14% of the entire American Indian/Alaska Native population of the United States.

### General Rules (these rules apply in California unless modified by PL 280)

Tribes are sovereign and have exclusive inherent jurisdiction over their territory and members, but **not** necessarily with jurisdiction over non-Indians even within tribal territory.

Tribes are under the exclusive and plenary jurisdiction of the federal congress, which may restrict or abolish jurisdiction and sovereignty. The federal government has exercised this power a number of times to limit tribal jurisdiction, assume federal jurisdiction over a number of areas, and delegate that jurisdiction to some states. Congress has granted limited jurisdictional authority to the federal courts (under the General Crimes Act 18 USC § 1153 and the Major Crimes Act 18 USC § 1152) and to state courts (for example under Public Law 280). Congress has imposed limits on tribal courts through the Indian Civil Rights Act (ICRA 25 USC § 1301-1303).

### Public Law 280

The general jurisdictional scheme was altered in California by Public Law 280 enacted by Congress in 1953. PL 280 transferred federal criminal jurisdiction and conferred some civil jurisdiction on states and state courts in the six mandatory Public Law 280 states, which includes California. Public Law 280 is now codified in federal law as 28 U.S.C. § 1360 regarding civil jurisdiction and 18 U.S.C. § 1162 regarding criminal jurisdiction.<sup>5</sup>

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<sup>1</sup> See <http://www.bia.gov/cs/groups/public/documents/text/idc006989.pdf>

<sup>2</sup> Note that some tribes remain “landless” meaning they have no land in trust for their members, while other tribes may have more than one reservation or rancheria.

<sup>3</sup> As of November 12, 2013. See <http://www.bia.gov/cs/groups/xofa/documents/text/idc1-024418.pdf>

<sup>4</sup> See <http://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf>

<sup>5</sup> See attached statutes.

Per the U.S. Supreme Court in *California v. Cabazon Band of Mission Indians* (1987) 480 U.S. 202, Public Law 280 had the following effect on California's civil and criminal jurisdiction in Indian Country:

In Pub L. 280, Congress expressly granted six States, including California, jurisdiction over specified areas of Indian country within the States and provided for the assumption of jurisdiction by other States. In § 2 [ie. 18 U.S.C. § 1162], California was granted broad criminal jurisdiction over offenses committed by or against Indians within all Indian country within the State. Section 4's [ie. 28 U.S.C. § 1360] grant of civil jurisdiction was more limited. In *Bryan v. Itasca County*, 426 U.S. 373 (1976), we interpreted § 4 to grant States jurisdiction over private civil litigation involving reservation Indians in state court, but not to grant general civil regulatory authority. *Id.*, at 385, 388-390. Accordingly, when a State seeks to enforce a law within an Indian reservation under the authority of Pub. L. 280 it must be determined whether the law is criminal in nature, and thus fully applicable to the reservation under § 2, or civil in nature, and applicable only as it may be relevant to private civil litigation in state court. (at pp. 207-208)

The "criminal/prohibitory" versus "civil/regulatory" distinction was set out by the Court in *Cabazon* as follows:

[I]f the intent of a state law is generally to prohibit certain conduct, it falls within Pub. L. 280's grant of criminal jurisdiction, but if the state law generally permits the conduct at issue, subject to regulation, it must be classified as civil/regulatory and Publ. L. 280 does not authorize its enforcement on an Indian reservation. (p. 209)

So, in terms of civil jurisdiction, the effect of PL 280 was merely to grant Indians access to state court forums to resolve disputes. It did not give the state jurisdiction to impose civil regulatory laws on the tribes or tribal territory. Note that the fact that there are misdemeanor criminal penalties for infraction of a law is not sufficient in and of itself to convert it from civil/regulatory into criminal/prohibitory for the purposes of Pub. L. 280. Further, PL 280 applies only to STATE laws of general application, local ordinances do not apply.

The term "Indian Country" is defined in 18 U.S.C. § 1151:

Except as otherwise provided in sections 1154 and 1156 of this title, the term "Indian country", as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within

or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

**California Criminal Jurisdiction in Indian Country pursuant to Public Law 280**

<b>Offender</b>	<b>Victim</b>	<b>Jurisdiction</b>
Non-Indian	Non-Indian	State jurisdiction is exclusive of federal and tribal jurisdiction unless certain specific federal laws apply.
Non-Indian	Indian	Generally, state has jurisdiction exclusive of federal and tribal jurisdiction. (However, under VAWA <sup>6</sup> can have concurrent tribal, and Federal if interstate provisions (18 U.S.C. 2261, 2261A, 2262 or 922(g)(8) or (9)) apply.) Under VAWA tribes may opt to exercise some jurisdiction over non-Indians for DV offences
Indian	Non-Indian	State has jurisdiction exclusive of federal government (unless federal government has reassumed jurisdiction under the Tribal Law and order Act) but tribe may exercise concurrent jurisdiction. Federal for certain federal offences including interstate DV.
Indian	Indian	Generally, state has jurisdiction exclusive of federal government (unless federal government has reassumed jurisdiction under Tribal Law and Order Act, or unless specific federal crimes are involved) but tribe may exercise concurrent jurisdiction.
Non-Indian	Victimless	State jurisdiction is exclusive unless federal jurisdiction has been reassumed under Tribal Law and order Act.
Indian	Victimless	There may be concurrent state, tribal, and federal jurisdiction if reassumption under Tribal Law and Order Act. There is no state regulatory jurisdiction.

**Full Faith and Credit**

While tribes are recognized as sovereign, they are not “states” for the purposes of the full faith and credit requirements of Article IV of the U.S. Constitution. There is general

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<sup>6</sup> Violence Against Women Act

consensus (but no Supreme Court authority on point) that tribes are not encompassed by the federal full faith and credit statute (28 U.S.C. §1738). There are, however, a number of relevant federal and state provisions that mandate full faith and credit for and between tribal courts:

- ❑ Indian Child Welfare Act (25 U.S.C. § 1911 (d))
- ❑ Violence Against Women Act (18 U.S.C. § 2265)
- ❑ Child Support Enforcement Act (28 U.S.C. 1738 B)
- ❑ Uniform Child Custody Jurisdiction and Enforcement Act (Family Code §3404)

Where there is no specific statutory mandate for full faith and credit, the general rule is that tribal court orders are entitled to comity

### **Effect on Dependency and Delinquency Jurisdiction**

Under the jurisdictional regime of PL 280, State courts in California generally have jurisdiction over dependency and delinquency cases involving Indians and Indian children, even if the events occur in Indian country. However, this jurisdiction is affected by the requirements of the Indian Child Welfare Act (ICWA) and the fact that tribe's may also exercise jurisdiction over these matters. Pursuant to ICWA (25 U.S.C. § 1911) even in PL-280 state, tribal jurisdiction is exclusive where a child is already the ward of a tribal court. Further, ICWA recognizes presumptive tribal jurisdiction over cases involving Indian children who are not already wards of a tribal court.

### **Effect on Jurisdiction in DV cases and ability to enforce protective orders**

If events take place in Indian country and either the victim or perpetrator or both are Indian, then tribal court may exercise concurrent jurisdiction with the state court. (Note that there may also be federal jurisdiction over some federally defined crimes). Tribal jurisdiction and remedies subject to limitations under the Indian Civil Rights Act and Major Crimes Act.

Civil state protective or restraining orders may be considered civil/regulatory and therefore be unenforceable in Indian country unless registered with the tribe/tribal court. Some county police departments take position that they have no authority to enforce protective orders in Indian country. Restraining orders issued in a criminal case should be enforced/enforceable on tribal lands.

Few California tribes have tribal courts or tribal police departments.

## **Laws Governing Federal Jurisdiction in Indian Country**

### **General Crimes Act:**

#### **18 U.S.C. § 1152. Laws governing**

Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

### **Major Crimes Act:**

#### **18 U.S.C. § 1153. Offenses committed within Indian country**

(a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, a felony assault under section 113, an assault against an individual who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

(b) Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

### **Embezzlement:**

#### **18 U.S.C. § 1163. Embezzlement and theft from Indian tribal organizations**

Whoever embezzles, steals, knowingly converts to his use or the use of another, willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, goods, assets, or other property belonging to any Indian tribal organization or intrusted to the custody or care of any officer, employee, or agent of an Indian tribal organization; or

Whoever, knowing any such moneys, funds, credits, goods, assets, or other property to have been so embezzled, stolen, converted, misapplied or permitted to be misapplied,

receives, conceals, or retains the same with intent to convert it to his use or the use of another--

Shall be fined under this title, or imprisoned not more than five years, or both; but if the value of such property does not exceed the sum of \$1,000, he shall be fined under this title, or imprisoned not more than one year, or both.

As used in this section, the term "Indian tribal organization" means any tribe, band, or community of Indians which is subject to the laws of the United States relating to Indian affairs or any corporation, association, or group which is organized under any of such laws.



**Public Law 280**

**Public Law 280 (Criminal Provision):**

**18 U.S.C. § 1162. State jurisdiction over offenses committed by or against Indians in the Indian country**

(a) Each of the States or Territories listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State or Territory to the same extent that such State or Territory has jurisdiction over offenses committed elsewhere within the State or Territory, and the criminal laws of such State or Territory shall have the same force and effect within such Indian country as they have elsewhere within the State or Territory:

<b>State or Territory of</b>	<b>Indian country affected</b>
aska	1 Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended
alifornia	1 Indian country within the State
innnesota	1 Indian country within the State, except the Red Lake Reservation
braska	1 Indian country within the State
regon	1 Indian country within the State, except the Warm Springs Reservation
isconsin	1 Indian country within the State

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(c) The provisions of sections 1152 and 1153 of this chapter shall not be applicable within the areas of Indian country listed in subsection (a) of this section as areas over which the several States have exclusive jurisdiction.

(d) Notwithstanding subsection (c), at the request of an Indian tribe, and after consultation with and consent by the Attorney General--

(1) sections 1152 and 1153 shall apply in the areas of the Indian country of the Indian tribe; and

(2) jurisdiction over those areas shall be concurrent among the Federal Government, State governments, and, where applicable, tribal governments.

**Public Law 280 (Civil Provisions):**

**28 U.S.C. § 1360. State civil jurisdiction in actions to which Indians are parties**

(a) Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State:

<i>State of</i>	<i>Indian country affected</i>
Alaska	1 Indian country within the State
California	1 Indian country within the State
Minnesota	1 Indian country within the State, except the Red Lake Reservation
Nebraska	1 Indian country within the State
Oregon	1 Indian country within the State, except the Warm Springs Reservation
Wisconsin	1 Indian country within the State

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

## **Federal Laws Requiring Full Faith and Credit**

### **18 U.S.C. § 2265. Full faith and credit given to protection orders**

**(a) Full faith and credit.**--Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were the order of the enforcing State or tribe.

**(b) Protection order.**--A protection order issued by a State, tribal, or territorial court is consistent with this subsection if--

**(1)** such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and

**(2)** reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

**(c) Cross or counter petition.**--A protection order issued by a State, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if--

**(1)** no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

**(2)** a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

**(d) Notification and registration.**--

**(1) Notification.**--A State, Indian tribe, or territory according full faith and credit to an order by a court of another State, Indian tribe, or territory shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State, tribal, or territorial jurisdiction unless requested to do so by the party protected under such order.

**(2) No prior registration or filing as prerequisite for enforcement.**--Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State, tribal, or territorial jurisdiction.

**(3) Limits on Internet publication of registration information.**--A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.

**(e) Tribal court jurisdiction.**--For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.

## **25 U.S.C. § 1911. Indian tribe jurisdiction over Indian child custody proceedings**

(d) Full faith and credit to public acts, records, and judicial proceedings of Indian tribes

The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

### **§ 1738B. Full faith and credit for child support orders**

**(a) General rule.**--The appropriate authorities of each State--

**(1)** shall enforce according to its terms a child support order made consistently with this section by a court of another State; and

**(2)** shall not seek or make a modification of such an order except in accordance with subsections (e), (f), and (i).

**(b) Definitions.**--In this section:

“child” means--

**(A)** a person under 18 years of age; and

**(B)** a person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a State.

“child's State” means the State in which a child resides.

“child's home State” means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.

“child support” means a payment of money, continuing support, or arrearages or the provision of a benefit (including payment of health insurance, child care, and educational expenses) for the support of a child.

“child support order”--

**(A)** means a judgment, decree, or order of a court requiring the payment of child support in periodic amounts or in a lump sum; and

**(B)** includes--

**(i)** a permanent or temporary order; and

**(ii)** an initial order or a modification of an order.

“contestant” means--

**(A)** a person (including a parent) who--

**(i)** claims a right to receive child support;

**(ii)** is a party to a proceeding that may result in the issuance of a child support order; or

**(iii)** is under a child support order; and

**(B)** a State or political subdivision of a State to which the right to obtain child support has been assigned.

“court” means a court or administrative agency of a State that is authorized by State law to establish the amount of child support payable by a contestant or make a modification of a child support order.

“modification” means a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to the child support order.

“State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in section 1151 of title 18).

**(c) Requirements of child support orders.**--A child support order made by a court of a State is made consistently with this section if--

(1) a court that makes the order, pursuant to the laws of the State in which the court is located and subsections (e), (f), and (g)--

(A) has subject matter jurisdiction to hear the matter and enter such an order; and

(B) has personal jurisdiction over the contestants; and

(2) reasonable notice and opportunity to be heard is given to the contestants.

**(d) Continuing jurisdiction.**--A court of a State that has made a child support order consistently with this section has continuing, exclusive jurisdiction over the order if the State is the child's State or the residence of any individual contestant unless the court of another State, acting in accordance with subsections (e) and (f), has made a modification of the order.

**(e) Authority to modify orders.**--A court of a State may modify a child support order issued by a court of another State if--

(1) the court has jurisdiction to make such a child support order pursuant to subsection (i); and

(2)(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that State no longer is the child's State or the residence of any individual contestant; or

(B) each individual contestant has filed written consent with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume continuing, exclusive jurisdiction over the order.

**(f) Recognition of child support orders.**--If 1 or more child support orders have been issued with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

(1) If only 1 court has issued a child support order, the order of that court must be recognized.

(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

**(3)** If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

**(4)** If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court having jurisdiction over the parties shall issue a child support order, which must be recognized.

**(5)** The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction under subsection (d).

**(g) Enforcement of modified orders.**--A court of a State that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under subsections (e) and (f).

**(h) Choice of law.--**

**(1) In general.**--In a proceeding to establish, modify, or enforce a child support order, the forum State's law shall apply except as provided in paragraphs (2) and (3).

**(2) Law of State of issuance of order.**--In interpreting a child support order including the duration of current payments and other obligations of support, a court shall apply the law of the State of the court that issued the order.

**(3) Period of limitation.**--In an action to enforce arrears under a child support order, a court shall apply the statute of limitation of the forum State or the State of the court that issued the order, whichever statute provides the longer period of limitation.

**(i) Registration for modification.**--If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.

## **California State Laws Concerning Recognition and Enforcement of Tribal Court Orders**

### **Under the Uniform Child Custody Jurisdiction and Enforcement Act:**

#### **Family Code § 3404. Native American children**

(a) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) is not subject to this part to the extent that it is governed by the Indian Child Welfare Act.

(b) A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying this chapter and Chapter 2 (commencing with Section 3421).

(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this part must be recognized and enforced under Chapter 3 (commencing with Section 3441).

### **Under the Uniform Interstate Family Support Act:**

#### **Family Code § 4901**

The following definitions apply to this chapter:

(s) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term “state” also includes both of the following:

- (1) An Indian tribe

### **Under the Uniform Interstate Enforcement of Domestic Violence Protection Orders:**

#### **Family Code § 6401**

In this part:

(1) “Foreign protection order” means a protection order issued by a tribunal of another state.

(2) “Issuing state” means the state whose tribunal issues a protection order.

(3) “Mutual foreign protection order” means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.

(4) “Protected individual” means an individual protected by a protection order.



(5) “Protection order” means an injunction or other order, issued by a tribunal under the domestic violence, family violence, or antistalking laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, another individual.

(6) “Respondent” means the individual against whom enforcement of a protection order is sought.

(7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or any branch of the United States military, that has jurisdiction to issue protection orders.

(8) “Tribunal” means a court, agency, or other entity authorized by law to issue or modify a protection order.

### **Under the Foreign Country Money Judgments Act:**

#### **Code of Civil Procedure § 1714. Definitions**

As used in this chapter:

(a) “Foreign country” means a government other than any of the following:

(1) The United States.

(2) A state, district, commonwealth, territory, or insular possession of the United States.

(3) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government's courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

(b) “Foreign-country judgment” means a judgment of a court of a foreign country. “Foreign-country judgment” includes a judgment by any Indian tribe recognized by the government of the United States.

### **Under the Interstate and International Depositions and Discovery Act**

#### **Code of Civil Procedure § 2029.200.**

In this article:

(a) “Foreign jurisdiction” means either of the following:

(1) A state other than this state.

(2) A foreign nation.

(b) “Foreign subpoena” means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(c) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(d) “State” means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

(e) “Subpoena” means a document, however denominated, issued under authority of a court of record requiring a person to do any of the following:

(1) Attend and give testimony at a deposition.

(2) Produce and permit inspection, copying, testing, or sampling of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person.

(3) Permit inspection of premises under the control of the person.

## **Indian Civil Rights Act**

### **25 U.S.C. § 1301. Definitions**

For purposes of this subchapter, the term--

- (1) "Indian tribe" means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;
- (2) "powers of self-government" means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;
- (3) "Indian court" means any Indian tribal court or court of Indian offense; and
- (4) "Indian" means any person who would be subject to the jurisdiction of the United States as an Indian under section 1153, Title 18, if that person were to commit an offense listed in that section in Indian country to which that section applies.

### **25 U.S.C. § 1302. Constitutional rights**

(a) In general

No Indian tribe in exercising powers of self-government shall--

- (1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
- (2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- (3) subject any person for the same offense to be twice put in jeopardy;
- (4) compel any person in any criminal case to be a witness against himself;
- (5) take any private property for a public use without just compensation;

**(6)** deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense (except as provided in subsection (b));

**(7)(A)** require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;

**(B)** except as provided in subparagraph (C), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 1 year or a fine of \$5,000, or both;

**(C)** subject to subsection (b), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 3 years or a fine of \$15,000, or both; or

**(D)** impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years;

**(8)** deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

**(9)** pass any bill of attainder or ex post facto law; or

**(10)** deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

**(b)** Offenses subject to greater than 1-year imprisonment or a fine greater than \$5,000

A tribal court may subject a defendant to a term of imprisonment greater than 1 year but not to exceed 3 years for any 1 offense, or a fine greater than \$5,000 but not to exceed \$15,000, or both, if the defendant is a person accused of a criminal offense who--

**(1)** has been previously convicted of the same or a comparable offense by any jurisdiction in the United States; or

**(2)** is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or any of the States.

**(c)** Rights of defendants

In a criminal proceeding in which an Indian tribe, in exercising powers of self-

government, imposes a total term of imprisonment of more than 1 year on a defendant, the Indian tribe shall--

**(1)** provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and

**(2)** at the expense of the tribal government, provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;

**(3)** require that the judge presiding over the criminal proceeding--

**(A)** has sufficient legal training to preside over criminal proceedings; and

**(B)** is licensed to practice law by any jurisdiction in the United States;

**(4)** prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government; and

**(5)** maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.

(d) Sentences

In the case of a defendant sentenced in accordance with subsections (b) and (c), a tribal court may require the defendant--

**(1)** to serve the sentence--

**(A)** in a tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration, in accordance with guidelines to be developed by the Bureau of Indian Affairs (in consultation with Indian tribes) not later than 180 days after July 29, 2010;

**(B)** in the nearest appropriate Federal facility, at the expense of the United States pursuant to the Bureau of Prisons tribal prisoner pilot program described in section 304(c) of the Tribal Law and Order Act of 2010;

**(C)** in a State or local government-approved detention or correctional center pursuant to an agreement between the Indian tribe and the State or local government; or

**(D)** in an alternative rehabilitation center of an Indian tribe; or

(2) to serve another alternative form of punishment, as determined by the tribal court judge pursuant to tribal law.

(e) Definition of offense

In this section, the term “offense” means a violation of a criminal law.

(f) Effect of section

Nothing in this section affects the obligation of the United States, or any State government that has been delegated authority by the United States, to investigate and prosecute any criminal violation in Indian country.

**25 U.S.C. § 1303. Habeas corpus**

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

## Legislation Affecting Jurisdiction Over Domestic Violence Cases

### 25 U.S.C. § 1304. Tribal jurisdiction over crimes of domestic violence

#### (a) Definitions

In this section:

##### (1) Dating violence

The term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

##### (2) Domestic violence

The term “domestic violence” means violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim under the domestic- or family- violence laws of an Indian tribe that has jurisdiction over the Indian country where the violence occurs.

##### (3) Indian country

The term “Indian country” has the meaning given the term in section 1151 of Title 18.

##### (4) Participating tribe

The term “participating tribe” means an Indian tribe that elects to exercise special domestic violence criminal jurisdiction over the Indian country of that Indian tribe.

##### (5) Protection order

The term “protection order”--

**(A)** means any injunction, restraining order, or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person; and

**(B)** includes any temporary or final order issued by a civil or criminal court, whether obtained by filing an independent action or as a pendent lite order in another proceeding,

if the civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

(6) Special domestic violence criminal jurisdiction

The term “special domestic violence criminal jurisdiction” means the criminal jurisdiction that a participating tribe may exercise under this section but could not otherwise exercise.

(7) Spouse or intimate partner

The term “spouse or intimate partner” has the meaning given the term in section 2266 of Title 18.

(b) Nature of the criminal jurisdiction

(1) In general

Notwithstanding any other provision of law, in addition to all powers of self-government recognized and affirmed by sections 1301 and 1303 of this title, the powers of self-government of a participating tribe include the inherent power of that tribe, which is hereby recognized and affirmed, to exercise special domestic violence criminal jurisdiction over all persons.

(2) Concurrent jurisdiction

The exercise of special domestic violence criminal jurisdiction by a participating tribe shall be concurrent with the jurisdiction of the United States, of a State, or of both.

(3) Applicability

Nothing in this section--

**(A)** creates or eliminates any Federal or State criminal jurisdiction over Indian country;  
or

**(B)** affects the authority of the United States or any State government that has been delegated authority by the United States to investigate and prosecute a criminal violation in Indian country.

(4) Exceptions

**(A)** Victim and defendant are both non-Indians

(i) In general



A participating tribe may not exercise special domestic violence criminal jurisdiction over an alleged offense if neither the defendant nor the alleged victim is an Indian.

(ii) Definition of victim

In this subparagraph and with respect to a criminal proceeding in which a participating tribe exercises special domestic violence criminal jurisdiction based on a violation of a protection order, the term “victim” means a person specifically protected by a protection order that the defendant allegedly violated.

(B) Defendant lacks ties to the Indian tribe

A participating tribe may exercise special domestic violence criminal jurisdiction over a defendant only if the defendant--

- (i) resides in the Indian country of the participating tribe;
- (ii) is employed in the Indian country of the participating tribe; or
- (iii) is a spouse, intimate partner, or dating partner of--
  - (I) a member of the participating tribe; or
  - (II) an Indian who resides in the Indian country of the participating tribe.

(c) Criminal conduct

A participating tribe may exercise special domestic violence criminal jurisdiction over a defendant for criminal conduct that falls into one or more of the following categories:

(1) Domestic violence and dating violence

An act of domestic violence or dating violence that occurs in the Indian country of the participating tribe.

(2) Violations of protection orders

An act that--

- (A) occurs in the Indian country of the participating tribe; and
- (B) violates the portion of a protection order that--

(i) prohibits or provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person;

(ii) was issued against the defendant;

(iii) is enforceable by the participating tribe; and

(iv) is consistent with section 2265(b) of Title 18.

(d) Rights of defendants

In a criminal proceeding in which a participating tribe exercises special domestic violence criminal jurisdiction, the participating tribe shall provide to the defendant--

(1) all applicable rights under this Act;

(2) if a term of imprisonment of any length may be imposed, all rights described in section 1302(c) of this title;

(3) the right to a trial by an impartial jury that is drawn from sources that--

(A) reflect a fair cross section of the community; and

(B) do not systematically exclude any distinctive group in the community, including non-Indians; and

(4) all other rights whose protection is necessary under the Constitution of the United States in order for Congress to recognize and affirm the inherent power of the participating tribe to exercise special domestic violence criminal jurisdiction over the defendant.

(e) Petitions to stay detention

(1) In general

A person who has filed a petition for a writ of habeas corpus in a court of the United States under section 1303 of this title may petition that court to stay further detention of that person by the participating tribe.

(2) Grant of stay

A court shall grant a stay described in paragraph (1) if the court--

(A) finds that there is a substantial likelihood that the habeas corpus petition will be granted; and

**(B)** after giving each alleged victim in the matter an opportunity to be heard, finds by clear and convincing evidence that under conditions imposed by the court, the petitioner is not likely to flee or pose a danger to any person or the community if released.

(3) Notice

An Indian tribe that has ordered the detention of any person has a duty to timely notify such person of his rights and privileges under this subsection and under section 1303 of this title.

(f) Grants to tribal governments

The Attorney General may award grants to the governments of Indian tribes (or to authorized designees of those governments)--

**(1)** to strengthen tribal criminal justice systems to assist Indian tribes in exercising special domestic violence criminal jurisdiction, including--

**(A)** law enforcement (including the capacity of law enforcement or court personnel to enter information into and obtain information from national crime information databases);

**(B)** prosecution;

**(C)** trial and appellate courts;

**(D)** probation systems;

**(E)** detention and correctional facilities;

**(F)** alternative rehabilitation centers;

**(G)** culturally appropriate services and assistance for victims and their families; and

**(H)** criminal codes and rules of criminal procedure, appellate procedure, and evidence;

**(2)** to provide indigent criminal defendants with the effective assistance of licensed defense counsel, at no cost to the defendant, in criminal proceedings in which a participating tribe prosecutes a crime of domestic violence or dating violence or a criminal violation of a protection order;

**(3)** to ensure that, in criminal proceedings in which a participating tribe exercises special domestic violence criminal jurisdiction, jurors are summoned, selected, and instructed in a manner consistent with all applicable requirements; and

(4) to accord victims of domestic violence, dating violence, and violations of protection orders rights that are similar to the rights of a crime victim described in section 3771(a) of Title 18, consistent with tribal law and custom.

(g) Supplement, not supplant

Amounts made available under this section shall supplement and not supplant any other Federal, State, tribal, or local government amounts made available to carry out activities described in this section.

(h) Authorization of appropriations

There are authorized to be appropriated \$5,000,000 for each of fiscal years 2014 through 2018 to carry out subsection (f) and to provide training, technical assistance, data collection, and evaluation of the criminal justice systems of participating tribes.

### **18 U.S.C. § 2261. Interstate domestic violence**

**(a) Offenses.--**

**(1) Travel or conduct of offender.--**A person who travels in interstate or foreign commerce or enters or leaves Indian country or is present within the special maritime and territorial jurisdiction of the United States with the intent to kill, injure, harass, or intimidate a spouse, intimate partner, or dating partner, and who, in the course of or as a result of such travel or presence, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

**(2) Causing travel of victim.--**A person who causes a spouse, intimate partner, or dating partner to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

**(b) Penalties.--**A person who violates this section or section 2261A shall be fined under this title, imprisoned--

**(1)** for life or any term of years, if death of the victim results;

**(2)** for not more than 20 years if permanent disfigurement or life threatening bodily injury to the victim results;

**(3)** for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;

(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

(5) for not more than 5 years, in any other case,

(6) Whoever commits the crime of stalking in violation of a temporary or permanent civil or criminal injunction, restraining order, no-contact order, or other order described in section 2266 of title 18, United States Code, shall be punished by imprisonment for not less than 1 year.

or both fined and imprisoned.

### **18 U.S.C. § 2261A. Stalking**

Whoever--

(1) travels in interstate or foreign commerce or is present within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, intimidate, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel or presence engages in conduct that--

(A) places that person in reasonable fear of the death of, or serious bodily injury to--

(i) that person;

(ii) an immediate family member (as defined in section 115) of that person; or

(iii) a spouse or intimate partner of that person; or

(B) causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to a person described in clause (i), (ii), or (iii) of subparagraph (A); or

(2) with the intent to kill, injure, harass, intimidate, or place under surveillance with intent to kill, injure, harass, or intimidate another person, uses the mail, any interactive computer service or electronic communication service or electronic communication system of interstate commerce, or any other facility of interstate or foreign commerce to engage in a course of conduct that--

(A) places that person in reasonable fear of the death of or serious bodily injury to a person described in clause (i), (ii), or (iii) of paragraph (1)(A); or

(B) causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to a person described in clause (i), (ii), or (iii) of paragraph (1)(A),

shall be punished as provided in section 2261(b) of this title.

**18 U.S.C. § 2262. Interstate violation of protection order**

**(a) Offenses.--**

**(1) Travel or conduct of offender.--**A person who travels in interstate or foreign commerce, or enters or leaves Indian country or is present within the special maritime and territorial jurisdiction of the United States, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct, shall be punished as provided in subsection (b).

**(2) Causing travel of victim.--**A person who causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, shall be punished as provided in subsection (b).

**(b) Penalties.--**A person who violates this section shall be fined under this title, imprisoned--

**(1)** for life or any term of years, if death of the victim results;

**(2)** for not more than 20 years if permanent disfigurement or life threatening bodily injury to the victim results;

**(3)** for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;

**(4)** as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

**(5)** for not more than 5 years, in any other case,

or both fined and imprisoned.

**18 U.S.C. § 922. Unlawful acts**

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**(g)** It shall be unlawful for any person—

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**(8)** who is subject to a court order that--

**(A)** was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

**(B)** restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

**(C)(i)** includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

**(ii)** by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

**(9)** who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

## 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](http://www.courts.ca.gov/documents/Tribal-ResearchUpdate-NAStats.pdf)

## FOR MORE INFORMATION

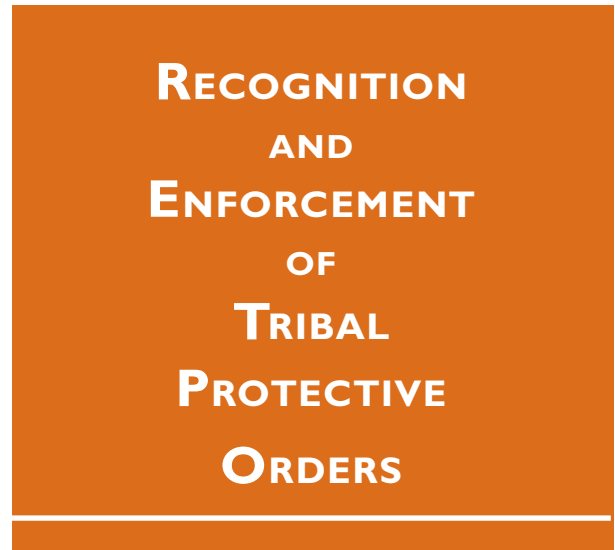
The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts, provides support to local courts on tribal issues and assists with the development of policies, positions, and programs to ensure the highest quality of justice and service for California's Native American 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](http://www.courts.ca.gov/programs-tribal.htm)

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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](http://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.

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**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.

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## 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.

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**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](http://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](http://www.courts.ca.gov/15574.htm).

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## Is there a tribal court in my jurisdiction?



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

## 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](http://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](http://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](http://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](http://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](http://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](http://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](http://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](http://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](http://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](http://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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455 Golden Gate Avenue  
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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](http://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](http://www.courts.ca.gov/8103.htm)
- ◆ Law and regulations  
[www.courts.ca.gov/8709.htm](http://www.courts.ca.gov/8709.htm)
- ◆ Qualified expert witnesses  
[www.courts.ca.gov/8105.htm](http://www.courts.ca.gov/8105.htm)
- ◆ Distance learning opportunities  
[www.courts.ca.gov/8075.htm#tab15022](http://www.courts.ca.gov/8075.htm#tab15022)
- ◆ Curriculum  
[www.courts.ca.gov/8075.htm#tab14468](http://www.courts.ca.gov/8075.htm#tab14468)
- ◆ Tribal customary adoption  
[www.courts.ca.gov/12569.htm](http://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](#)

**Discussion on Selection of Tribal Court  
Judge Cochair to the Forum**



# California Rules of Court

## **Rule 10.31. Advisory committee membership and terms**

### **(a) Membership**

The categories of membership of each advisory committee are specified in the rules in this chapter. Each advisory committee consists of between 12 and 18 members, unless a different number is specified by the Chief Justice or required by these rules. Advisory committee members do not represent a specific constituency but must act in the best interests of the public and the entire court system.

*(Subd (a) amended effective September 1, 2003.)*

### **(b) Terms**

The Chief Justice appoints advisory committee members to three-year terms unless another term is specified in these rules. Terms are staggered so that an approximately equal number of each committee's members changes annually. The Chief Justice also may appoint judicial officers who have served less than two years on the bench to one-year terms.

*(Subd (b) amended effective January 1, 2007; previously amended effective November 1, 2004.)*

### **(c) Chair and vice-chair**

The Chief Justice appoints an advisory committee member to be a committee chair or vice-chair for a one-year term except for the chair and vice-chair of the Court Executives Advisory Committee, who may be appointed to two-year terms.

*(Subd (c) amended effective January 1, 2007; previously amended effective September 1, 2000, and January 1, 2004.)*

### **(d) Advisory members**

On the request of the advisory committee, the Chief Justice may designate an advisory member to assist an advisory committee or a subcommittee. Advisory members may participate in discussions and make or second motions but cannot vote.

*(Subd (d) amended effective January 1, 2007.)*

### **(e) Termination of membership**

Committee membership terminates if a member leaves the position that qualified the member for the advisory committee unless the Chief Justice determines that the individual may complete the current term.

### **(f) Vacancies**

Vacancies are filled as they occur according to the nomination procedures described in rule 10.32.

*(Subd (f) amended effective January 1, 2007.)*

### **(g) Retired judges**

A judge's retirement does not cause a vacancy on the committee if the judge is eligible for assignment. A retired judge who is eligible for assignment may hold a committee position based on his or her last judicial position.

*Rule 10.31 amended and renumbered effective January 1, 2007; adopted as rule 6.31 effective January 1, 1999; previously amended effective September 1, 2000, September 1, 2003, January 1, 2004, and November 1, 2004.*



# California Rules of Court

## Rule 10.60. Tribal Court-State Court Forum

### (a) Area of focus

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 overlaps.

### (b) Additional duties

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.

### (c) Membership

The forum must include the following members:

- (1) Tribal court judges or justices selected by tribes in California, as described in (d), but no more than one tribal court judge or justice from each tribe;
- (2) At least three trial court judges from counties in which a tribal court is located;
- (3) At least one appellate justice of the California Courts of Appeal;
- (4) At least one member from each of the following committees: the Access and Fairness Advisory Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Family and Juvenile Law Advisory Committee, Governing Committee of the Center for Judicial Education and Research, Probate and Mental Health Advisory Committee, and Traffic Advisory Committee; and
- (5) As ex officio members, the Director of the California Attorney General's Office of Native American Affairs and the Governor's Tribal Advisor.

The composition of the forum must have an equal or a close-to-equal number of judges or justices from tribal courts and state courts.

### (d) Member Selection

- (1) The Chief Justice appoints all forum members, except tribal court judges and tribal court justices, who are appointed as described in (2).
- (2) For each tribe in California with a tribal court, the tribal leadership will appoint the tribal court judge or justice member to the forum consistent with the following selection and appointment process.
  - (A) The forum cochairs will notify the tribal leadership of a vacancy for a tribal court judge or justice and request that they submit names of tribal court judges or justices to serve on the forum.



- (B) A vacancy for a tribal court judge or justice will be filled as it occurs either on the expiration of a member's term or when the member has left the position that qualified the member for the forum.
- (C) If there are more names of tribal court judges and justices submitted by the tribal leadership than vacancies, then the forum cochaIRS will confer and decide which tribal court judges or justices should be appointed. Their decision will be based on the diverse background and experience, as well as the geographic location, of the current membership.

**(e) CochaIRS**

The Chief Justice appoints a state appellate justice or trial court judge and a tribal court appellate justice or judge to serve as cochaIRS, consistent with rule 10.31(c).

*Rule 10.60 adopted effective October 25, 2013.*

**Judicial Council Comment**

Tribes are recognized as distinct, independent political nations (see *Worcester v. Georgia* (1832) 31 U.S. 515, 559, and *Santa Clara Pueblo v. Martinez* (1978) 436 U.S. 49, 55, citing *Worcester*), which retain inherent authority to establish their own form of government, including tribal justice systems. (25 U.S.C.A. § 3601(4).) Tribal justice systems are an essential part of tribal governments and serve to ensure the public health and safety and the political integrity of tribal governments. (25 U.S.C.A. § 3601(5).) Traditional tribal justice practices are essential to the maintenance of the culture and identity of tribes. (25 U.S.C.A. § 3601(7).)

The constitutional recognition of tribes as sovereigns in a government-to-government relationship with all other sovereigns is a well-established principle of federal Indian law. (See *Cohen's Handbook of Federal Indian Law* (2005) p. 207.) In recognition of this sovereignty, the council's oversight of the forum, through an internal committee under rule 10.30(d), is limited to oversight of the forum's work and activities and does not include oversight of any tribe or tribal court.

# Meeting Minutes



# JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

[www.courts.ca.gov/forum.htm](http://www.courts.ca.gov/forum.htm)  
[forum@jud.ca.gov](mailto:forum@jud.ca.gov)

## TRIBAL COURT-STATE COURT FORUM

### MINUTES OF OPEN MEETING

August 20, 2015

12:15-1:15 p.m.

By Conference Call

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**Advisory Body  
Members Present:**

*Hon. Richard Blake, Cochair, Hon. Dennis M. Perluss, Cochair, Hon. Abby Abinanti, Hon. April Attebury, Hon. Kimberly A. Gaab, Hon. Anthony Lee, Hon. John L. Madigan, Hon. Lester Marston, Hon. David E. Nelson, Hon. Mark Radoff, Hon. Deborah A. Ryan, Hon. Claudette C. White, Hon. Christopher G. Wilson, and Hon. Joseph J. Wiseman*

**Advisory Body  
Members Absent:**

*Hon. Mitchell L. Beckloff, Hon. Jerilyn L. Borack, Ms. Jacqueline Davenport, Hon. Leonard P. Edwards, Hon. Bill Kockenmeister, Mr. Olin Jones, Hon. Michael Golden, Hon. Cynthia Gomez, Hon. Suzanne N. Kingsbury, Hon. Kimberly J. Nystrom-Geist, Hon. Deborah L. Sanchez, Hon. Allen H. Sumner, Hon. Juan Ulloa, Hon. Christine Williams, Hon. Sarah S. Works, and Hon. Daniel Zeke Zeidler*

**Others Present:**

*Ms.Carolynn Bernabe, Ms. Vida Castaneda, Hon. Mary Risling, and Ms. Jennifer Walter*

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### OPEN MEETING

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**Call to Order and Roll Call**

The chair called the meeting to order at 12:18 p.m., and took roll call.

**Approval of Minutes**

No meeting minutes to approve.

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### DISCUSSION AND ACTION ITEMS (ITEMS 1-9)

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**Item 1**

**Cochairs Report**

- **California Judicial Council Form GC-310**

In response to the forum's comment on the conservatorship petition, form GC-310, the Probate and Mental Health Advisory Committee has revised the form at the top of page 4 to refer to possible conservatorship proceedings in other jurisdictions.

The new text reads as follows:

So far as known to petitioner, a conservatorship or equivalent proceeding concerning the proposed conservatee [ ] has not [ ] has been filed in another jurisdiction, 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):”*

Also, “Indian tribe with jurisdiction” was substituted for “federally recognized Indian tribe” in the form.

- [Transfer Agreement Between Dry Creek Rancheria and Sonoma County](#)  
The link to this transfer agreement was distributed in response to a forum member’s request.
- Promoting Indian Law Proficiency for Law Students  
Consistent with the forum’s annual agenda to develop a proposal to promote the education of federal Indian law in California law schools, staff contacted the California State Bar’s Committee of Bar Examiners and learned that the deans of the California law schools met regularly and would entertain a proposal from the forum. Forum cochair Justice Dennis Perluss and UCLA Vice Chancellor Carole Goldberg, presented the proposal to the deans on June 2, 2015. They recommended the state bar examination include American Indian law as a topic on the essay portion of the exam to recognize the legal and historical frameworks in which tribal nations and the State of California operate and to prepare practitioners who may encounter American Indian legal issues. The timing of the proposal was inopportune because the State Bar was in the process of reducing the bar examination from 3 to 2 days and therefore was not in a position to expand the topics on the exam. Staff prepared a draft letter that forum members are encouraged to send to the State Bar individually to advocate for inclusion of American Indian law on the examination.
- [Judge’s Page Newsletter](#)  
The most recent issue of The Judges' Page Newsletter, published by the National CASA Association and the National Council of Juvenile and Family Court Judges, focuses on tribal issues in dependency. A link was provided. The issue includes an article by Justice William Thorne, who was instrumental in the launching of the forum and present at our first meeting, and an article by Judge Wahwassuck, who led the way for innovative joint jurisdictional courts, like the one in California. Also, featured are several articles by tribal and state court judicial leaders in California. The forum cochairs directed members’ attention to several articles authored by forum members and staff.
- Guest Speaker: Ms. Mary Jane Risling, Tribal Consultant, California Department of Social Services  
Ms. Risling described her role at the California Department of Social Services and offered her services as a resource to the forum members. In summary, Ms. Risling participates in the statewide Indian Child Welfare workgroup, assists in the development of a tribal consultation policy for CDSS, and provides technical assistance in the new, web-based case management system to ensure that it collects tribe-specific information and prompts social workers to enter information to document compliance with the Indian Child Welfare Act.

## Item 2 (Policies)

**Dollar Gen. Corp. v. Miss. and of Choctaw Indians**

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

The United States Supreme Court is considering 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 relationships with a tribe or its members.

Judge Wiseman reported the potential for a decision that would diminish tribal sovereignty is likely and urged the tribal court judges to join the amicus brief. Judge Blake agreed to work with Judge Wiseman to obtain a resolution that could be circulated to tribes in California and, once signed, could be forwarded to the lead attorney preparing the amicus brief.

**Item 3 (Policies)**

**Legislative Proposal- AB445 (Alejo)**

Presenter: Hon. Lester J. Marston

Originally introduced to amend the California Vehicle Code, the bill would now amend the Family Code to include tribal court judges in the enumerated list of individuals who can solemnize a marriage. The author decided to make it a two-year bill.

**Item 4 (Partnerships)**

**Court Administrator Toolkit**

Presenters: Ms. Vida Castaneda  
Ms. Jennifer Walter

The Court Administrator Toolkit is a forum project, listed in its annual agenda. The forum initiated this project to promote collaboration and cross-jurisdictional education among tribal, state, and federal courts. Building on the successful relationships forged among judges, this toolkit is intended to help sustain these court relationships. By way of background, the chairs of the forum and the Judicial Council's Court Executives Advisory Committee (CEAC) formed an ad hoc working group, comprised of Ms. Jaqueline Davenport, El Dorado Superior Court, Ms. Tammy Grimm, Imperial Superior Court, and Mr. Samuel Hamrick, Riverside Superior Court, to review and assist in the development of this toolkit. As a result of the forum's partnerships with CEAC, the Tribal Court Clerk's Association, the California Court Clerk's Association, the National Judicial Council, and the Federal District Court, staff presented the completed tribal and state portions of the toolkit to members for their review. The toolkit was approved by the forum and the above mentioned groups. Judge Edward J. Davila, District Judge, U.S. District Court for the Northern District of California, is developing the federal component. Upon its completion, he will present it to the forum and seek the California State-Federal Judicial Council's endorsement of the toolkit. Staff will seek funding to disseminate the toolkit statewide to tribal leaders and courts in California.

*Action Item: Staff to work with Judge Davila to develop the federal component of the toolkit. Staff will also seek funding to pay for the duplication of the toolkit and postage to mail it statewide.*

### **Item 5 (Policies)**

**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).**

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

Presenter: Ms. Jennifer Walter

Ms. Walter described the proposed statewide regulations on ICWA and solicited comments on the proposed draft comments. One forum member recommended the following revisions:

- First paragraph, add at the end of the sentence, “Understanding ICWA requirements and responsibilities is essential to promoting the best interests of Indian children,” the words “by ensuring connection to their tribes, their people, and their cultures.”
- Second paragraph, add at the end of the sentence, “The comments are intended to ensure that the regulations are consistent with federal and state law concerning ICWA” the words, “as well as the spirit of ICWA, and with its primary goal of keeping Indian children with Indian families.”

Members also discussed that the regulations should clarify the term, “non-federally recognized tribe”.

*Action Item: Staff will make the forum’s revisions and the final version will be forwarded to the California Judicial Council’s Policy Coordination and Liaison Committee (PCLC). PCLC will consider the comments on August 27, 2015, and if approved, they will be forwarded to CDSS on behalf of the California Judicial Council.*

### **Item 6 (Education)**

**Forum Educational Work with CJER Governing Board Curriculum Committees**

Presenter: Hon. David E. Nelson

Judge Nelson described how the forum is working closely with the CJER Governing Board Curriculum Committees to review judicial educational online materials and will be making recommendations on where the forum’s federal Indian toolkit should be incorporated into CJER’s existing toolkits, which are by case type. Judge Nelson solicited forum volunteers to assist him in the following subject areas: family, civil, probate, and access and fairness. Judge Nelson volunteered himself for the criminal toolkit. The following forum members also volunteered: Judge Radoff and Judge Marston agreed to any of the subject areas. Judge Wiseman volunteered for the civil toolkit. Judge Beckloff volunteered for the probate toolkit. Judge Wilson volunteered for the family toolkit.

*Action Item: Judge Nelson will follow up with the forum volunteers and the CJER curriculum chairs to pair a forum member with a curriculum committee member to work on each toolkit. Staff to assist.*

**Item 7 (Education)**

**Beyond the Bench Conference- Tribal/State Workshops**

**December 1-4, 2015**

**Anaheim, CA**

Presenter: Ms. Vida Castaneda

Ms. Castaneda described the upcoming Beyond the Bench Conference, a multidisciplinary statewide conference devoted to children, youth, and families in the California court system, which will be held the first week in December in Anaheim. It will bring together more than 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. Based on the workshop abstracts submitted, staff is working with faculty for three workshops related to the Indian Child Welfare Act: (1) compliance issues; (2) hot topics (new federal guidelines and regulations and recent Supreme Court cases); (3) collaboration and best practices.

**Item 8 (Partnerships)**

**S.T.E.P.S. to Justice- Domestic Violence Status Report**

Presenters: Hon. John L. Madigan

Ms. Jennifer Walter

Ms. Walter described the STEPS to Justice-Domestic Violence project funded by CalOES, and invited forum members to contact staff for services. Ms. Walter then introduced one of the projects under this grant, which will develop jurisdictional tools for law enforcement and judges. Judge Madigan described the working group meeting in San Diego that brought together representatives from tribal law enforcement, county sheriff departments, the California State Sheriff Association, the California Department of Justice, the California Peace Officers Standards and Training, and the Office of Emergency Services. Ms. Walter led the group in discussion to develop jurisdictional tools. The tools have been drafted and are currently being reviewed by working group members and a review team, comprised of Judge Wiseman, Judge Becky Dugan, Riverside Superior Court, Bill Denke, President of the Tribal Police Chief's Association, and Dorothy Alther, director of California Indian Legal Services. The tools will be revised based on the input from the working group members and review team. The forum will review the tools at its next meeting. The plan is to seek endorsements from the groups represented in the working group.

*Action Item: Ms. Walter to continue working on the tools. The forum to review these tools at its next meeting.*

**Item 9 (Partnerships)**

**S.T.E.P.S. to Justice- Indian Child Welfare Services Status Report**

Presenter: Ms. Vida Castaneda

Ms. Castaneda described the STEPS to Justice-Indian Child Welfare Services funded by the California Department of Social Services and invited members to contact staff for services.

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**ADJOURNMENT**

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There being no further business, the meeting was adjourned at 1:15 p.m.

Pending approval by the advisory body on October 8, 2015.





JUDICIAL COUNCIL  
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

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TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING

July 16, 2015

12:15-1:15 p.m.

By Conference Call

**Advisory Body  
Members Present:**

*Hon. Richard Blake, Cochair, Hon. Dennis M. Perluss, Cochair,*  
Hon. April Attebury, Hon. Jerilyn L. Borack, Ms. Jacqueline Davenport, Hon.  
Kimberly A. Gaab, Hon. Michael Golden, Hon. Bill Kockenmeister, Mr. Olin Jones,  
Hon. Anthony Lee, Hon. Lester Marston, Hon. Kimberly J. Nystrom-Geist, Hon.  
Christine Williams, and Hon. Joseph J. Wiseman

**Advisory Body  
Members Absent:**

Hon. Abby Abinanti, Hon. Mitchell L. Beckloff, Hon. Leonard P. Edwards, Hon.  
Cynthia Gomez, Hon. Suzanne N. Kingsbury, Hon. John L. Madigan, Hon. David  
E. Nelson, Hon. Deborah A. Ryan, Hon. Deborah L. Sanchez, Hon. Allen H.  
Sumner, Hon. Juan Ulloa, Hon. Claudette C. White, Hon. Christopher G. Wilson,  
Hon. Sarah S. Works, and Hon. Daniel Zeke Zeidler

**Others Present:**

Ms. Vida Castaneda, Ms. Ann Gilmour, and Ms. Jennifer Walter

OPEN MEETING

**Call to Order and Roll Call**

The chair called the meeting to order at 12:17 p.m., and took roll call.

**Approval of Minutes**

No meeting minutes to approve.

DISCUSSION AND ACTION ITEMS (ITEM 1)

**Item 1**

**ICWA Transfer Rule- Policy Discussion and Recommendation Before Submission to the California Judicial Council**

Justice Perluss opened the discussion by describing the proposal to amend the California Rules of Court and revisions to Judicial Council forms concerning the transfer of juvenile court proceedings involving an Indian child from the jurisdiction of the juvenile court to a tribal court. He explained that only changes in response to provisions of Senate Bill 1460 (Stats. 2014, ch. 772) (SB 1460) and the Court of Appeal decision in *In re. M.M.* (2007) 154 Cal.App.4th 897 were within the scope of the proposal for consideration today. Any new suggested changes outside the scope of the proposal could be considered as part of a later future proposal.

Members suggested two proposals outside the scope:

1. Judge Marston proposed adding to JV-060 on page 2, paragraph 5 (f) (1) the following language after the word “transfer”: “and a party did not rebut and overcome the objection.”
2. Judge Radoff proposed (in a written submitted comment) adding to JV-060 the requirement that appealing parties specify what the grounds are for appealing the good cause, specifically the legal issue, not simply a second bite at the apple on a factual dispute.

After discussion, the forum decided to make minor substantive and technical changes, which are summarized below:

1. Minor substantive changes to the rules as follows:
  - Made the advisement applicable to all parties;
  - Clarified the advisement; and
  - Added an advisory committee comment.
2. Minor plain language addition to forms:
  - Added plain language for the legal term, *stay*;
3. Minor substantive change to form JV-800 as follows:
  - Made the advisement applicable to all parties;
  - Referred litigants to rule and advisory committee comment; and
4. Technical reorganizational changes to the ICWA-060 as follows:
  - Reorganized what is currently 5 and 6 so that there is one section (5) that would contain all of those things required when a transfer is granted – that includes what is currently 5 (a) through (e) and what is now item 6 and a separate section for those orders required when a transfer is denied (what is currently 5 (f) and (g)).
  - Removed the check boxes from what is currently 5 (c), (d), and (e), because the check boxes generally mean that an order is optional and in this case these are not optional, they are required by SB1460.

Judge Marston made the motion. Judge Nystrom-Geist seconded the motion. The vote was unanimous. For the record, Judge Abby Abinanti contacted staff and asked that the minutes reflect that she did not participate in the discussion or decision.

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#### ADJOURNMENT

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There being no further business, the meeting was adjourned at 1:05 p.m.

Approved by the advisory body on August 20, 2015.



STATE OF CALIFORNIA  
OFFICE OF THE ATTORNEY GENERAL  
KAMALA D. HARRIS  
ATTORNEY GENERAL

February 12, 2015

Re: Oversight and Enforcement of Laws Related to Foster Youth

Dear Colleagues:

As elected and appointed leaders in your county with responsibility for our child welfare and juvenile justice systems, I write to inform you of the creation of the Bureau of Children's Justice (Bureau) at the California Department of Justice. The Bureau's mission is to protect the rights of children and focus the attention and resources of law enforcement and policymakers on the importance of safeguarding every child so that they can meet their full potential.

Staffed with both civil rights and criminal prosecutors, the Bureau will focus its enforcement and advocacy efforts on several areas, including California's foster care, adoption and juvenile justice systems; discrimination and inequity in education; elementary school truancy; human trafficking of vulnerable youth; and childhood trauma. The Bureau of Children's Justice will use the criminal and civil law enforcement powers of the California Department of Justice to identify and pursue much-needed improvements to policies impacting children, and work with local, state, and national stakeholders to enhance supports available for children in need and to hold those who prey on children accountable.

As the chief law officer of the State of California, I share your interest in seeing that laws and regulations enacted to protect our children are consistently and effectively enforced.<sup>1</sup> Within my office, sections across our civil, criminal and public rights divisions pursue a variety of cases to ensure all of California's children are given full protection under the law. These efforts have included investigations of alleged self-dealing or other improprieties by nonprofit charities; litigation involving foster care licensure or adoption; maintenance of the Child Abuse Central Index; and participation in the Commercial Sexual Exploitation of Children (CSEC) statewide taskforce, to name a few. The new Bureau will organize, focus, and expand on expertise within the Department of Justice on

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<sup>1</sup> Cal. Const., art. V, §13.



issues impacting children, as well as engage a spectrum of stakeholders – policymakers, elected officials, child welfare agencies, local education agencies, mental health officials, and law enforcement agencies – in order to fulfill its mission to protect the rights of all children.

The engagement process begins with you as leaders in California who have the vital responsibility of protecting some of our most vulnerable children – our foster youth.

Despite extensive legal protections and public agencies' legal obligations to foster youth, a 2011 audit of California child welfare services found that throughout the State, county agencies could be more vigilant and responsive to child abuse and neglect, and that they must more consistently inform oversight or licensing entities of child abuse and neglect.<sup>2</sup> Similarly, a review of the educational, employment, health, and criminal justice outcomes for foster youth in California makes clear that we can and must do better. Generally, students in foster care are older for their grade level than other student groups; drop out at a higher rate than other at-risk student groups; only 50% pass the California high school exit exam in grade 10; about 33% change schools at least once during the school year (at four times the rate of the low-socioeconomic status or general populations); and 20% are classified with a disability. Among students with disabilities, foster youth have a higher rate of emotional disturbance.<sup>3</sup> Emancipated foster youth are also more likely to become homeless and to become involved in the criminal justice system.<sup>4</sup>

As officials and employees in positions of public trust, we all have a duty to care for and protect the children placed into foster care in California.<sup>5</sup> The failure to protect California's foster children cannot be attributed solely to one official or agency. As part of our shared commitment to improving outcomes for our children, I urge you to evaluate your current enforcement and oversight policies and practices in this area, and to contact our office with concerns and ideas for potential collaboration.

California law, as you are aware, provides foster children with a variety of rights, including but not limited to:

*Rights Relating to Home Environment*

- live in a safe, healthy, and comfortable home where they are treated with respect;<sup>6</sup>
- be free of corporal punishment or physical, sexual, emotional or other abuse;<sup>7</sup>

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<sup>2</sup> Cal. State Auditor, *Child Welfare Services: California Can and Must Provide Better Protection and Support for Abused and Neglected Children* (2011) pp. 29, 31.

<sup>3</sup> Barrat, *The Invisible Achievement Gap, Part 1: Education Outcomes of Students in Foster Care in California's Public Schools* (2013) pp. 10, 12, 14, 17, 36-37.

<sup>4</sup> Danielson, *Foster Care in California: Achievements and Challenges* (2010) p. 14.

<sup>5</sup> Welf. & Inst. Code, § 16000.1, subd. (a)(1).

<sup>6</sup> Welf. & Inst. Code, § 16001.9, subd. (a)(1).

<sup>7</sup> Welf. & Inst. Code, § 16001.9., subd. (a)(2).

- receive adequate and healthy food, clothing, and for youth in group homes, an allowance;<sup>8</sup>
- receive medical, dental, vision, and mental health services;<sup>9</sup>
- be free of medication or chemical substances, unless authorized by a physician;<sup>10</sup>
- not be discriminated against on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status;<sup>11</sup>
- have caregivers and child welfare personnel who are trained in cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care;<sup>12</sup> and
- contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, and, unless prohibited by court order, to make and receive confidential telephone calls and send and receive unopened mail.<sup>13</sup>

*Rights Relating to Education*

- attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with their age and developmental level, with minimal disruptions to school attendance and educational stability;<sup>14</sup>
- access the same academic resources, services, and enrichment activities as other students;<sup>15</sup>
- at 16 years of age or older, have access to existing information regarding the educational options available, including, but not limited to, the coursework necessary for vocational and postsecondary educational programs, and information regarding financial aid for postsecondary education;<sup>16</sup>
- remain enrolled in and attend their school of origin pending resolution of any school placement dispute,<sup>17</sup> and be immediately enrolled in school even if all typically required school records, immunizations, or school uniforms are not available;<sup>18</sup> and
- be protected from being penalized for school absences due to placement changes, court appearances, or related court ordered activities.<sup>19</sup>

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<sup>8</sup> Welf. & Inst. Code, § 16001.9, subd. (a)(3).

<sup>9</sup> Welf. & Inst. Code, § 16001.9, subd. (a)(4).

<sup>10</sup> Welf. & Inst. Code, § 16001.9, subd. (a)(5).

<sup>11</sup> Welf. & Inst. Code, § 16001.9, subd. (a)(23).

<sup>12</sup> Welf. & Inst. Code, § 16001.9, subd. (a)(24).

<sup>13</sup> Welf. & Inst. Code, § 16001.9, subds. (a)(6), (9).

<sup>14</sup> Welf. & Inst. Code, § 16001.9, subd. (a)(13).

<sup>15</sup> Ed. Code, §§ 48850, subd. (a)(1); 48853, subd. (h).

<sup>16</sup> Welf. & Inst. Code, § 16001.9, subd. (a)(25).

<sup>17</sup> Ed. Code, §§ 48853, subd. (d); 48853.5, subd. (e)(1).

<sup>18</sup> Ed. Code, § 48853.5, subd. (e)(8)(B).

<sup>19</sup> Ed. Code, § 49069.5, subds. (g), (h).

Each of the above-described rights in the Education Code applies to youth in both the dependency and juvenile justice systems.<sup>20</sup> Foster youth also have the right to make complaints related to any violations of these rights.<sup>21</sup>

It is paramount that state, county and local agencies throughout the State guarantee these rights by fulfilling their legal obligations, including but not limited to:

- **Meeting licensing requirements.** Under current California law, foster care facilities must meet respective health and safety standards in order to be licensed or approved.<sup>22</sup>
- **Ensuring quality of care.** Licensed facilities providing care for children must be inspected at least annually. Such inspections should take place without advance notice and as often as necessary to ensure the quality of care provided.<sup>23</sup>
- **Reporting child abuse.** A “mandated reporter” includes a licensing worker or evaluator; an administrator or employee of a licensed care facility; a social worker, probation officer, or parole officer; and a district attorney investigator, inspector, or local child support agency caseworker.<sup>24</sup> If a mandated reporter, in his or her professional capacity or within the scope of his or her employment, knows or reasonably suspects a foster youth has been the victim of child abuse or neglect, he or she must call a designated agency immediately or as soon as is practicably possible, and submit a written follow up report within 36 hours of receiving the information concerning the incident.<sup>25</sup>
- **Investigating suspected child abuse cases.** Any police or sheriff’s department, county welfare department, or other agency designated by the county to receive mandated reports must accept reports of suspected child abuse or neglect from a mandated reporter, or from any other person or referring agency.<sup>26</sup> The agency must then investigate the report of child abuse or neglect, and forward substantiated reports in writing to the California Department of Justice.<sup>27</sup>

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<sup>20</sup> Specifically, they apply to a “foster child,” defined as: a child who has been removed from his or her home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code. (Ed. Code, §§ 48853.5, subd. (a), 49069.5, subd. (i)(3).) A child is the subject of a petition filed under section 602 of the Welfare and Institutions Code when he or she has violated any law of this State or of the U.S., other than murder in certain circumstances and certain sex offenses, or any ordinance of any city or county of this State defining crime other than an ordinance establishing a curfew based solely on age, and are within the jurisdiction of the juvenile court and may be adjudged a ward of the court. (Welf. & Inst. Code, § 602, subd. (a).)

<sup>21</sup> Welf. & Inst. Code, § 16001.9, subd. (a)(8).

<sup>22</sup> Welf. & Inst. Code, § 16519, subd. (b).

<sup>23</sup> Health & Saf. Code, § 1522.4, subd. (a)(4); Cal. Code. Regs., tit. 22, § 84044.

<sup>24</sup> Pen. Code, § 11165.7.

<sup>25</sup> Pen. Code, § 11166, subd. (a).

<sup>26</sup> Pen. Code, § 11165.9.

<sup>27</sup> Pen. Code, § 11169, subd. (a).

- **Protecting foster youth against discrimination.** Under federal law, states receiving federal foster care funds cannot delay or deny placement of a child for adoption on the basis of the child’s or prospective parent’s race.<sup>28</sup> Additionally, LGBTQ foster children, foster parents, and service providers have a right to equal access to all services, placement, care, treatment and benefits of the foster care system, without discrimination or harassment.<sup>29</sup> Lastly, in 2010, California enacted AB 1325 to better serve Native American children in the child welfare system. The statute added “tribal customary adoption” as a less disruptive placement option, through which termination of parental rights is not required and Native children maintain the option of later returning to their tribal community.
- **Ensuring equal access to education for youth in the dependency and juvenile justice systems.** Educators, county probation and child welfare agencies, care providers, advocates, and the juvenile courts must work together to maintain stable school placements and to ensure that each student is placed in the least restrictive educational programs with access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils.<sup>30</sup> Both the local educational agency and the county placing agency are therefore responsible for the proper and timely transfer between schools of pupils in foster care.<sup>31</sup> And each local educational agency must designate a staff person as the educational liaison for foster youth who is responsible for ensuring and facilitating the proper educational placement and enrollment of foster youth, and assisting them when transferring from one school to another or from one school district to another, including ensuring the proper transfer of credits, records, and grades.<sup>32</sup> The educational liaison must also ensure that a child is immediately enrolled in a new school, and within two business days must request all academic and other records for the child to be transferred from the old school to the new school.<sup>33</sup>

Through my office’s new Bureau of Children’s Justice, I look forward to working with you to uphold these and other obligations to children across our State.

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<sup>28</sup> Section 422(b)(7) of the Social Security Act (Title IV-B); Section 471(a)(18) of the Social Security Act (Title IV-E).

<sup>29</sup> Welf. & Inst. Code, §§ 16001.9, subd. (a)(23); 16013, subd. (a).

<sup>30</sup> Ed. Code, § 48850, subd. (a)(1).


<sup>31</sup> Ed. Code, § 49069.5, subd. (b).

<sup>32</sup> Ed. Code, § 48853.5, subd. (b).

<sup>33</sup> Ed. Code, §§ 48853.5, subd. (e)(8); 49069.5, subds. (d)-(f).

As the Bureau begins its work, I welcome your ideas, feedback, and suggestions for ways we can work together on this endeavor. I encourage you to contact Deputy Attorney General Michael Newman at [Michael.Newman@doj.ca.gov](mailto:Michael.Newman@doj.ca.gov). Thank you for all that you do for Californians.

Sincerely



KAMALA D. HARRIS  
Attorney General

cc:

Tom Torlakson, Superintendent of Public Instruction, California Department of Education

Diana S. Dooley, Secretary, California Health and Human Services Agency

Jeffrey A. Beard, Secretary, California Department of Corrections and Rehabilitation

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Martin N. Hoshino, Administrative Director of the Courts, Judicial Council of California

Karen Grace-Kaho, Foster Care Ombudsman, California Department of Social Services

Linda Penner, Chair, Board of State and Community Corrections

Camille Maben, Executive Director, First 5 California Children and Families Commission



Tribal Wellness Court  
Enhancement Training

[Home](#)[Agenda](#)[Materials](#)[Registration](#)[Hotel and Travel](#)[Contact-Us](#)[2014 Agenda and Materials](#)

**September 8-10, 2015**  
**Hotel Albuquerque**  
**800 Rio Grande Blvd. NW**  
**Albuquerque, NM 87104**

The [Tribal Law and Policy Institute](#) is pleased to host the **4th Annual Tribal Healing to Wellness Court Enhancement Training**, to take place September 8-10, 2015 at Hotel Albuquerque, located in Albuquerque, NM.

The [Bureau of Justice Assistance](#) has approved this training.  
The training has been approved by the New Mexico MCLE for 15.00 credits.

On this website you can find registration, hotel information, as well as the agenda and materials from the 2014 3rd Annual Tribal Healing to Wellness Court Enhancement Training. The 2015 Agenda and Materials will be available soon.

Find more information on Healing to Wellness Courts generally, please visit: [www.WellnessCourts.org](http://www.WellnessCourts.org).

The first day of the training is intended for tribes in the planning and implementation state, while the second and third day are intended to be more advanced. Teams are welcome and encouraged to attend all three days.

**Day 1 -- September 8, 2015: Pre-Conference for Tribes in the Planning/Implementation Stage**

Day 1 training topics will be geared towards tribes in the planning stage or within the first year of operation of their Adult, Family, Juvenile, or DUI Healing to Wellness Court.

Training topics will include:

- Tribal 10 Key Component Practices & Principles
- Healing to Wellness Courts as Matters of Good Governance
- Entry
- Screening and Assessments
- Sanctions and Incentives
- Planning Lessons Learned

**Days 2 and 3 -- September 9-10, 2015: Enhancing Tribal Healing to Wellness Courts**

Days 2 and 3 training topics will be more advanced, geared towards tribes that have been operating their Healing to Wellness Courts for over one year.

Training topics will include:

- Tribal 10 Key Component Practices & Principles
- Healing to Wellness Courts as Matters of Good Governance
- Team Building and Self-Care
- Pharmacology and Medically-Assisted Treatment
- Family Healing to Wellness Courts
- Juvenile Healing to Wellness Courts
- Confidentiality
- Sanctions and Incentives

- and more!

The revised and updated [Tribal Healing to Wellness Courts: The Key Components, 2nd ed.](#) resource publication will be utilized as the framework resource for this training. Tribal court personnel, tribal leaders, tribal law enforcement, tribal corrections, tribal probation and pretrial services, tribal treatment providers, and others involved in the implementation or enhancement of Tribal Healing to Wellness Courts are invited to attend this comprehensive training, as well as Tribal Wellness Court Teams whose Tribal Wellness Court is in the Planning or Renewal Stage.

Please email [wellness@tjpi.org](mailto:wellness@tjpi.org) for more information or visit our [www.WellnessCourts.org](http://www.WellnessCourts.org). Thank you.

[Return to Top](#)

Federal Component of the  
Tribal/State/Federal  
Court Administrator Toolkit

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September 29, 2015

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RE: Endorsement of Toolkit

Dear Ms. Walter,

The National Judicial College and the National Tribal Judicial Center support the purpose of the Tribal/State/Federal Court Clerk & Administrators toolkit and believe in the idea of promoting judicial education among local tribal, state and federal courts in California.

We believe this innovative idea aimed to strengthen each justice system, build future innovative court collaborations, and maximize resources for the benefit of all California citizens is useful and a step toward solidifying cooperation and collegiality between all judicial systems.

We are proud to endorse this project and are honored to have been a part of the process of creating this beneficial resource.

Very truly yours,



Chad C. Schmucker  
President  
The National Judicial College



Christine Folsom, J.D., LL.M.  
Director  
The National Tribal Judicial Center



## **Materials of Interest for Visiting a California Federal Court**

### **-Table of Contents-**

#### **I. The Courts of the United States**

- [A. The Establishment and Structure of the Federal Courts](#)
- [B. The United States Supreme Court](#)
- [C. The Courts of Appeals](#)
- [D. The District Courts](#)
- [E. Federal Judges](#)

#### **II. Cases Heard in Federal Court**

- [A. Federal Court Jurisdiction](#)
- [B. Civil Cases](#)
- [C. Criminal Cases](#)
- [D. Bankruptcy Cases](#)

#### **III. Federal Court Administration**

- [A. The Individual Courts and the Clerk's Office](#)
- [B. The Judicial Council of the United States](#)
- [C. The Administrative Office of the Courts](#)
- [D. Other Agencies](#)

#### **IV. The California Federal Courts**

- [A. Ninth Circuit Court of Appeals](#)
- [B. United States District Court for the Northern District of California](#)



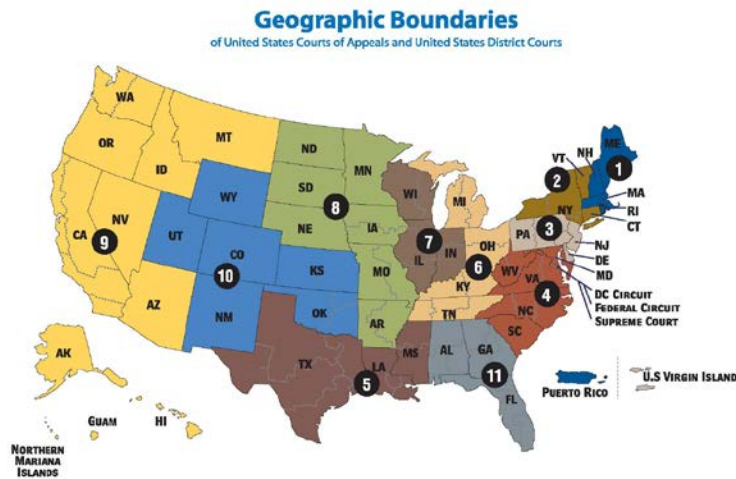
C. United States District Court for the Eastern District of California

D. United States District Court for the Central District of California

E. United States District Court for the Southern District of California



## I. The Courts of the United States



### A. The Establishment and Structure of the Federal Courts

The United States Constitution establishes three separate but equal branches of government: the legislative branch (makes the law), the executive branch (enforces the law), and the judicial branch (interprets the law).

Article III of the Constitution establishes the judicial branch. It provides for “one supreme Court,” which is now known to as the United States Supreme Court, and “such inferior Courts as the Congress may from time to time ordain and establish.” These inferior courts are known as the United States Courts of Appeals and the United States District Courts.

### B. The United States Supreme Court

The Supreme Court consists of the Chief Justice of the United States and eight associate justices. At its discretion, and within certain guidelines established by Congress, the Supreme Court hears a small percentage of the cases it is asked to decide each year. Supreme Court cases are usually selected either because the lower courts have differed on a legal issue or they involve important questions about the Constitution or federal law.

### C. The Courts of Appeals

The United States Court of Appeals are organized into 12 regional circuits, as shown above. A court of appeals hears challenges to district court decisions from courts located within its circuit, as well as appeals from decisions of federal administrative agencies. In addition, some Court of Appeals have nationwide jurisdiction to hear appeals in specialized cases, such as those involving patent laws.





#### **D. The District Courts**

The United States District Courts are the primary trial courts of the federal court system. Within limits set by Congress and the Constitution, the district courts have jurisdiction to hear nearly all categories of federal cases, including both civil and criminal matters.

There are 94 federal judicial districts, including at least one district in each state, the District of Columbia, and Puerto Rico. Each district includes a bankruptcy court as a unit of the district court.

Three territories of the United States—the Virgin Islands, Guam, and the Northern Mariana Islands—also have U.S. district courts that hear federal cases, including bankruptcy cases.

#### **E. Federal Judges**

Supreme Court justices, Court of Appeals judges, and district court judges are nominated by the President and confirmed by the United States Senate, as stated in the Constitution.

The names of potential nominees are often recommended by senators or sometimes by members of the House who are of the President's political party. The Senate Judiciary Committee typically conducts confirmation hearings for each nominee. Article III of the Constitution states that these judicial officers are appointed for a life term.

The Constitution sets forth no specific requirements for judges. However, members of Congress, who typically recommend potential nominees, and the Department of Justice, which reviews nominees' qualifications, have developed their own informal criteria.

Bankruptcy and magistrate judges are judicial officers of district courts. The President and Senate have no role in their selection. Congress determines the number and location of bankruptcy judges; they are appointed by the courts of appeals. The district court determines the number and location of magistrate judges and appoints them.



## II. Cases Heard in Federal Court

### A. Federal Court Jurisdiction

Unlike courts established by the states, a federal court can only hear a case, or “exercise its jurisdiction,” when certain conditions are met.

Generally, this means that federal courts hear cases involving the constitutionality of a law, cases involving the laws and treaties of the United States, disputes between two or more states or parties from two or more states, admiralty law, federal criminal law, and bankruptcy cases.

### B. Civil Cases

A federal civil case involves a legal dispute between two or more parties. A civil action begins when a party to a dispute files a complaint, and either pays or has waived a filing fee required by statute.

The complaint describes the plaintiff’s damages or injury, explains how the defendant caused the harm, shows that the court has jurisdiction, and asks the court to order relief. A plaintiff may seek money to compensate for the damages, or may ask the court to order the defendant to stop the conduct that is causing the harm. The court may also order other types of relief, such as a declaration of the legal rights of the plaintiff in a particular situation.

Unless the parties reach a settlement, the court will schedule a trial. In a wide variety of civil cases, either side is entitled under the Constitution to request a jury trial. If the parties waive their right to a jury, then a judge without a jury will hear the case.

In a civil case, the plaintiff must convince the jury by a “preponderance of the evidence” (i.e., that it is more likely than not) that the defendant is responsible for the harm the plaintiff has suffered.

### C. Criminal Cases

Criminal cases differ from civil cases. At the beginning of a federal criminal case, the principal actors are the U.S. Attorney (the prosecutor) and the grand jury. The U.S. Attorney represents the United States in most court proceedings, including all criminal prosecutions. The grand jury reviews evidence presented by the U.S. Attorney and decides whether it is sufficient to require a defendant to stand trial.

In a criminal trial, the burden of proof is on the government. Defendants do not have to prove their innocence. Instead, the government must provide evidence to convince the jury of the defendant’s guilt. The standard of proof in a criminal trial gives the prosecutor a much greater burden than the plaintiff in a civil trial. The defendant must be found guilty “beyond a reasonable doubt,” which means the evidence must be so strong that there is no reasonable doubt that the defendant committed the crime.



**D. Bankruptcy Cases**

Federal courts have exclusive jurisdiction over bankruptcy cases. A bankruptcy case normally begins by the debtor filing a petition with the bankruptcy court. Some bankruptcy cases are filed to allow a debtor to reorganize and establish a plan to repay creditors, while other cases involve liquidation of the debtor's property.

Some bankruptcy cases give rise to litigation over such matters as who owns certain property, how it should be used, what the property is worth, how much is owed on a debt, whether the debtor should be discharged from certain debts, or how much money should be paid to lawyers, accountants, auctioneers, or other professionals. Litigation in the bankruptcy court is conducted in much the same way that civil cases are handled in the district court.



### **III. Federal Court Administration**

#### **A. The Individual Courts and the Clerk's Office**

The day-to-day responsibility for judicial administration rests with each individual court. Each court is given responsibility by statute and administrative practice to appoint support staff, supervise spending, and manage the court's records.

The chief judge of each court plays a key leadership role in overseeing and coordinating the efficient operations of the court. Although the chief judge is generally responsible for overseeing day-to-day court administration, important policy decisions are made by the judges of the court working together.

The clerk of court is the executive hired by the judges of the court to carry out the court's administrative functions. The clerk manages the court's non-judicial functions in accordance with policies set by the court, and reports directly to the court through its chief judge. The clerk of court is also responsible for the management of other non-judicial employees of the court, such as deputy clerks and court reporters.

#### **B. The Judicial Conference of the United States**

The Judicial Conference of the United States is the federal courts' national policy-making body. The Chief Justice of the United States presides over the Judicial Conference, which consists of 26 other members including the chief judge of each court of appeals, one district court judge from each regional circuit, and the chief judge of the Court of International Trade.

The Judicial Conference works through committees established along subject matter lines to recommend national policies and legislation on all aspects of federal judicial administration.

#### **C. The Administrative Office of the Courts**

The Administrative Office of the Courts, or AOC, is an agency within the judicial branch that provides a broad range of legislative, legal, financial, technology, management, administrative, and program support services to the federal courts. The AOC is responsible for carrying out the policies of the Judicial Conference of the United States.

A primary responsibility of the Administrative Office is to provide staff support and counsel to the Judicial Conference and its committees.

#### **D. Other Agencies**

There are several other agencies that work in tandem with the federal courts to carry out the many functions of the judicial branch. These include the United States Marshals and the Probation and Pretrial Services System.

## IV. The California Federal Courts

### A. Ninth Circuit Court of Appeals



The Ninth Circuit Court of Appeals exercises appellate jurisdiction over federal matters arising from the western states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Oregon and Washington, as well as the United States territories of Guam and the Northern Mariana Islands. While it hears cases in various locations throughout the Circuit at different times of the year, its primary courthouses are located in San Francisco, Pasadena, Portland and Seattle.

In San Francisco, the James R. Browning Courthouse is located at 95 7th Street, San Francisco, California, 94103.

In Pasadena, the Richard H. Chambers Courthouse is located at 125 South Grand Avenue, Pasadena, California, 91105.

For more information about the Ninth Circuit Court of Appeals, including a current calendar of upcoming hearings, please [click here](#).



**B. United States District Court for the Northern District of California**



The United States District Court for the Northern District of California is the trial-level federal court for fifteen counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, and Sonoma.

The court has four courthouses (in San Francisco, Oakland, San Jose and Eureka), fourteen district judgeships and eleven magistrate judgeships. Bankruptcy cases are heard in San Francisco, Oakland, San Jose and Santa Rosa.

In San Francisco, the Phillip Burton Federal Building and United States Courthouse is located at 450 Golden Gate Avenue, San Francisco, California, 94102.

In Oakland, the Ronald V. Dellums Federal Building and United States Courthouse is located at 1301 Clay Street, Oakland, California, 94612.

In San Jose, the Robert F. Peckham Federal Building and United States Courthouse is located at 280 South 1st Street, San Jose, California, 95113.

In the Eureka area, the United States Courthouse is located at 3140 Boeing Avenue, McKinleyville, California, 95519.

For more information about the Northern District of California, including a current calendar of upcoming hearings, please [click here](#). For more information about the Bankruptcy Court, please [click here](#).



**C. United States District Court for the Eastern District of California**



The United States District Court for the Eastern District of California is the trial-level federal court for thirty-four counties: Calaveras, Stanislaus, Tuolumne, Merced, Mariposa, Madera, Fresno, Inyo, Kings, Tulare, Kern, Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo and Yuba.

The court has five courthouses (in Sacramento, Fresno, Bakersfield, Redding and Yosemite), eight district judgeships and fifteen magistrate judgeships. Bankruptcy cases are heard in Sacramento, Modesto, Fresno and Bakersfield.

In Sacramento, the Robert Matsui Federal Courthouse is located at 501 I Street, Sacramento, California, 95814.

In Fresno, the Robert E. Coyle Federal Courthouse is located at 2500 Tulare Street, Fresno, California, 93721.

In Redding, the Federal Courthouse is located at 2986 Bechelli Lane, Redding, California, 96002.

In Bakersfield, the Federal Courthouse is located at 510 19th Street, Bakersfield, California, 93301.

For more information about the Eastern District of California, including a current calendar of upcoming hearings, please [click here](#). For more information about the Bankruptcy Court, please [click here](#).



**D. United States District Court for the Central District of California**



The United States District Court for the Central District of California is the trial-level federal court for seven counties: San Luis Obispo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange and Riverside.

The court has four courthouses (two in Los Angeles, and one each in Santa Ana and Riverside), thirty-four district judgeships and twenty-six magistrate judgeships. Bankruptcy cases are heard in Santa Barbara, Woodland Hills, Santa Ana, Riverside and Los Angeles.

In Los Angeles, the United States Courthouse is located at 312 North Spring Street, Los Angeles, California, 90012. The Edward R. Roybal Federal Building and United States Courthouse is located at 255 East Temple Street, Los Angeles, California, 90012.

In Santa Ana, the Ronald Reagan Federal Building and United States Courthouse is located at 411 West Fourth Street, Santa Ana, California, 92701.

In Riverside, the George E. Brown, Jr. Federal Building and United States Courthouse is located at 3470 Twelfth Street, Riverside, California, 92501.

For more information about the Central District of California, including a current calendar of upcoming hearings, please [click here](#). For more information about the Bankruptcy Court, please [click here](#).



**E. United States District Court for the Southern District of California**



The United States District Court for the Southern District of California is the trial-level federal court for two counties: San Diego and Imperial.

The court has three courthouses (two in San Diego and one in El Centro), eighteen district judgeships and eleven magistrate judgeships. Bankruptcy cases are heard in San Diego.

In San Diego, the Edward J. Schwartz United States Courthouse is located at 221 West Broadway, San Diego, California, 92101. The James M. Carter and Judith N. Keep United States Courthouse is located at 333 West Broadway, San Diego, California, 92101.

In El Centro, the United States Courthouse is located at 2003 West Adams Avenue, El Centro, California, 92243.

For more information about the Southern District of California, including a current calendar of upcoming hearings, please [click here](#). For more information about the Bankruptcy Court, please [click here](#).

# Jurisdictional Tools for Judges and Law Enforcement

- **Glossary of Terms for Courts and Law Enforcement**

“California Peace Officer”

- A peace officer as defined in California Penal Code §§830 et seq.

“Courts”

- *California state courts* are established by Article 6 of the California Constitution. There are three levels—superior courts in each of the 58 counties; appellate courts which review matters by geographical region, and the Supreme Court, the final state decision-maker of the constitutionality of state laws. The Supreme Court must review all criminal convictions resulting in imposition of the death penalty. Superior court judges may be initially appointed by the Governor or may seek election directly to a judicial seat. Judges appointed by the Governor must stand for election. Terms are six (6) years; there are no lifetime appointments. Superior Courts hear criminal, civil, juvenile, family, probate, and traffic matters. For more information visit the California Courts website, <http://www.courts.ca.gov/998.htm>.
- *Tribal courts* are established by federally recognized tribes which are sovereign nations. The term “tribal court”, “tribal court system”, or “tribal justice system” means the entire judicial branch, and employees thereof, of an Indian tribe, including, but not limited to, traditional methods of dispute resolution, trial courts, appellate courts, including inter-tribal appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribunal authority whether or not they constitute a court of record. (25 U.S. C. § 3653(8)). There is considerable variation in how tribal courts operate and what kinds of matters they hear. Some are more formalized using written laws and procedures while others use traditional Native ways of resolving matters such as peacemaking, councils, and sentencing circles. Tribal courts may serve a single tribe or multiple/all tribes in a particular geographical region. For more information, visit the California Tribal Courts Directory, <http://www.courts.ca.gov/14400.htm>.
- *Federal courts* are established by Article III of the United States Constitution, and are courts of limited jurisdiction. Judges are nominated by the President and confirmed by the U.S. Senate for lifetime terms. There are three levels of federal courts—District, Circuit (appellate) courts, and Supreme Court. Courts hear federal actions arising under federal statutes, common law and the Constitution, disputes between states and residents from different states. For more information, visit the United States Courts website, <http://www.uscourts.gov/about-federal-courts/court-role-and-structure/comparing-federal-state-courts>.

- Domestic violence offenses may fall under state, tribal, and federal statutes and may be heard by state, tribal and/or federal courts depending on how and where the offense occurred.

#### “Court Order/Protective or Protection Order/Restraining Order”

- These terms can be used interchangeably to mean the same thing.
- A protection order is an injunction or other order issued by a tribunal under the domestic violence, family violence, or anti-stalking laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, another person. (CA Family Code § 6401(5))
- Orders not issued by a California court, no matter what they are called, are subject to full faith and credit as “foreign orders” if:
  - The issuing court had jurisdiction over the parties and the subject matter (18 U.S.C. §2256(b)(1); CA Family Code § 6402(d)(3)); and
  - The Party to be restrained was provided with reasonable notice and the opportunity to be heard (18 U.S.C. § 2265(b)(2); CA Family Code §6402 (d)(4)).
- Officers enforcing such orders should verify the existence of an order and its specific terms and conditions from an official source, such as by reading a copy of the order in the protected party’s possession, or obtaining information from a supervisor or police dispatcher with access to the terms of the order.” Beier v. City of Lewiston (9<sup>th</sup> Cir., 2004) 354 F. 3d 1058; Guerra v. Sutton (9<sup>th</sup> Cir., 1986) 783 F. 2d 1371; Marks v. Clarke (9<sup>th</sup> Cir., 1997) 102 F. 3d 1012.

#### “Criminal Prohibitory and Civil/Regulatory”—see separate table

#### “Full Faith and Credit”

- The Full Faith and Credit provision (18 U.S.C. § 2265) of the Violence Against Women Act (VAWA) requires courts and law enforcement to recognize and enforce protection orders from other jurisdictions, including Indian tribes and bands, as if the orders were issued in their jurisdiction. (See also CA Family Code § 6403(a))
- Under federal and state laws, registration of a protection order cannot be a prerequisite to enforcement (18 U.S.C. § 2265(d)(1)(3); CA Family Code
- § 6403(d))

#### “Immunity from Civil Liability”

- Police officers who enforce a protection order from another jurisdiction in good faith are entitled to immunity from civil liability for false arrest or false imprisonment. CA Family Code § 6405(a) provides:

*There shall be no civil liability on the part of, and no cause of action for false arrest or false imprisonment against, a peace officer who makes an arrest pursuant to a foreign protection order that is regular upon its face, if the peace officer, in making the arrest, acts in good faith and has reasonable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order.*

- Officers enforcing such orders should verify the existence of an order and its specific terms and conditions from an official source, such as by reading a copy of the order in the protected party's possession, or obtaining information from a supervisor or police dispatcher with access to the terms of the order." Beier v. City of Lewiston (9<sup>th</sup> Cir., 2004) 354 F. 3d 1058; Guerra v. Sutton (9<sup>th</sup> Cir., 1986) 783 F. 2d 1371; Marks v. Clarke (9<sup>th</sup> Cir., 1997) 102 F. 3d 1012.

#### "Indian Country"

Indian Country is defined by federal law (18 U.S.C. § 1151) and includes these categories of land ownership and use:

- Federal reservations, including fee land, and land privately owned, and/or subject to a rights-of- way such as a public road (18 USC 1151(a)); Donnelly v. United States (1913) 228 U.S. 243 United States v. John (1978) 437 U.S. 634);
- Dependent Indian communities which are federally supervised lands set aside for the use of Indians (18 U.S.C. § 1151(b)); Alaska v. Native Village of Venetie Tribal Government (1998) 522 U.S. 520);
- Indian allotments, whether on or off a reservation, to which title has not been extinguished, including rights-of-way running through allotments (18 U.S.C. § 115); United States v. Pelican (1914) 232 U.S. 442; and United States v. Ramsey (1926) 271 U.S. 467);
- Other land which has been set aside for the use of Indians as Indian land, and overseen by the U.S. Government;
- Land held in trust by the United States for a tribe or individual Indian (Oklahoma Tax Comm'n. v. Potawatomi Indian Tribe (1991) 498 U.S. 505); and
- Indian country status is not changed by Public Law 280 (See generally, California v. Cabazon Band of Indians (1987) 480 U.S. 202, 207 n.5).

Some of the material for this section is drawn from the U.S. Attorney's Resource Manual, §677, visited August 7, 2015 at <http://www.justice.gov/usam/criminal-resource-manual-677-indian-country-defined>.

## “Inherent Sovereign Authority”

Indian tribes, as sovereigns, historically have inherent jurisdictional power over everything occurring within their territory, unless clearly and unambiguously limited by Congress, through treaties, statutes, and common law. Water Wheel Camp Rec. Area Inc. v. Larance (9<sup>th</sup> Cir., 2011). Any analysis of jurisdiction should begin with this sovereign authority and determine whether this broad sovereign authority had been reduced.

## “Jurisdiction”

- Jurisdiction means legal authority to act.
- Concurrent jurisdiction means multiple justice systems have legal authority to act.
- Outside of California, Congress has granted exclusive criminal jurisdictional authority to the federal courts under the General Crimes Act (18 U.S.C. §1152) and limited concurrent criminal jurisdictional authority over Indian Country to the federal courts under the Major Crimes Act (18 U.S.C. § 1153). Congress passed Public Law 280 which removed federal criminal jurisdiction under 18 U.S.C. 1162.

“Probable Cause” to make an arrest means under the totality of circumstances known to the arresting officer a prudent person would conclude that is a fair probability that a suspect had committed or was committing a crime. (Beck v. Ohio (1989) 379 U.S. 89; Grant v. City of Long Beach (9<sup>th</sup> Cir., 2002) 315 F. 3d 1081

“Probable Cause” to take enforcement action for violating the terms and conditions of a protection order exist if:

- The order identifies the protected person and person to be restrained and
- The order is currently in effect (CA Family Code § 6403(a)).

[Note: without a protection order presented, law enforcement may still find probable cause to believe a valid protection order exists based on other information (CA Family Code § 6403(b)).]

## “State”

- An Indian tribe or band is included within the definition of “state” under California law that addresses the enforcement of a “foreign” protection (CA Family Code § 6401(7))

## “Tribal Law Enforcement”

- Tribes may have different levels of law enforcement, such as security officers who are charged with “observing and reporting” or other limited authority defined by the tribe.

*Tribal Law Enforcement Officers.* Tribal police officers are employed by tribes to provide law enforcement services on tribal lands. Their authority is defined by the tribe and may include enforcement of tribal codes and ordinances. If granted arrest powers by the tribe, they may only arrest tribal members and Indians on tribal lands. If tribal police officers detain a non-Indian on reservation property, they may do so only long enough to turn the non-Indian suspect over to state or federal authorities. (Strate v. A-1 Contractors (1997) 520 U.S. 438; Ortiz-Barraza v. United States (9<sup>th</sup> Cir., 1975) 512 F. 2d 1176).

- *Tribal Law Enforcement Officers Deputized by County Sheriff's Department* Under Penal Code § 830.6(d), a county sheriff may deputize or appoint a tribal law enforcement officer as a reserve, an auxiliary, or a reserved deputy sheriff to enforce state laws on Indian lands. The tribal officer must meet state training requirements. A deputation agreement must be entered into by the county sheriff and the tribe. Deputizing tribal police officers can better facilitate apprehension of criminal offenders who travel from one jurisdiction to another in an attempt to elude capture.
- *Federally Deputized Tribal Police Officers Deputized by the Bureau of Indian Affairs, Office of Justice Services*

The Bureau of Indian Affairs (BIA), Office of Justice Services, can issue qualified tribal police officers a "Special Law Enforcement Commission (SLEC)". Tribal officers with a SLEC are federal law enforcement officers with the same authority as a federal BIA officer. They are authorized to enforce federal laws (and in some cases, tribal laws) on the reservation. They may enforce federal laws off the reservation if there is a nexus between the crime and the tribe's Indian Country; when their assistance is requested by another law enforcement agency; and in exigent/emergency situations. They may arrest Indians and non-Indians. All tribal officers must qualify for the SLEC which requires that they complete: 1) a state or federal law enforcement academy, 2) a thorough adjudication (background) process; and 3) a class on Federal Indian Criminal Jurisdiction. (25 U.S.C. § 2804). There must be a deputation agreement in place between BIA and the tribe.

Tribal officers with a SLEC are also authorized to enforce state laws (See Penal Code section § 830.8).

#### "Tribunal"

- Tribunal includes courts, agencies, or other entities authorized by law to issue or modify a protection order

## **Frequently Asked Questions Domestic Violence Offenses Committed in Indian Country**

### Introduction

Federally recognized tribes possess the inherent powers of a sovereign government, except as limited by Congress, treaties, statutes, and common law. These powers include the right of tribes to form their own governments; to make and enforce laws, both civil and criminal; to establish justice systems, including tribal police and tribal courts; to tax; to establish and determine membership (i.e., tribal citizenship); to license and regulate activities within their jurisdiction; to zone; and to exclude persons from tribal lands.<sup>1</sup>

When California peace officers enter tribal lands to investigate and enforce criminal prohibitory conduct they may face uncertainties related to jurisdiction, extent of court authority, and the interplay of state and tribal laws. Key to effective policing is the establishment of relationships between California peace officers and their tribal counterparts and governments which develop an understanding tribe-specific histories and cultures, and knowledge of available and appropriate services. Tribes have a strong interest in preventing crimes and apprehending those who commit them on tribal property and may be willing to work with local law enforcement in investigating and collecting needed evidence to support a prosecution.

It is worth recalling that at a domestic violence incident both tribal law enforcement and California peace officers may be conducting investigations. Each can back up the other enhancing officer safety, provide resources to victims, and take enforcement action against a suspect. These processes can be complementary. Some agencies and tribal governments have established practices and agreements to foster and support effective relationships and interactions.

Please refer to the Practice Tips at the end of this document for further information

This FAQ Tool is intended to help clarify legal issues that arise in domestic violence cases occurring in Indian Country. If you need legal advice then please check with your tribal attorney or department's local city attorney or county counsel.

### Jurisdiction

1. *Do California peace officers have authority to act when a domestic violence crime occurs on tribal lands?*

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<sup>1</sup> See, e.g., 55 Interior Dec. 14, 48-50 (1934 )(powers of Indian Tribes). See Merrion v. Jicarilla Apache Tribe (1982), 455 U.S. 130, 159; Quechan Tribe v. Rowe (9<sup>th</sup> Cir., 1976) 531 F.2d 408.



Answer: Yes.

Public Law 280 directs California to enforce state domestic violence crimes on all California tribal lands, including reservations, and trust and fee lands. California peace officers have the same duty to investigate and make arrests on tribal lands as they have for similar acts occurring off tribal lands.

2. *Do California peace officers have authority to make a misdemeanor arrest for a domestic violence offense such as Penal Code 243(e)(1) or 273.6 on tribal lands?*

Answer: Yes.

California peace officers have legal authority under Penal Code 836 (c)(1) and (d) to make an arrest without a citizen's/private person's arrest even when the offense is not committed in the officer's presence as long as there is probable cause to believe the offense has occurred in the same manner as an arrest for the same offenses occurring off tribal lands.

3. *Must California peace officers obtain permission to enter tribal lands from Tribal Authorities?*

Answer: No

First responders responding to a domestic violence call are not required to obtain permission from the Tribe to enter tribal lands. Practically speaking, they may need to contact tribal representatives to find a victim or crime location; they may want to ask for tribal police back up, or they may need to speak with a tribal representative at the entrance to tribal lands.

Once the call is handled or when otherwise safe to do so, it may enhance communication and the relationship with the tribe to notify tribal authorities of the call.

If the case requires execution of search or arrest warrants or service of subpoenas, and depending on the relationship with the tribe and nature of the case, it may be helpful to notify tribal representatives in advance. Any existing agreement should guide how these tasks are accomplished.

4. *Can California peace officers force entry into a residence on tribal lands to investigate a report of a domestic violence offense and to check on the safety and welfare of a reported victim?*

Answer: Yes.

The duty to investigate a domestic violence offense on tribal lands is the same as the duty to investigate a similar offense off tribal lands. If an officer or deputy could lawfully force entry on a domestic violence call in a city or county location, he or she can force entry on tribal lands.

#### Seizure of Weapons, Including Firearms

5. *Can California peace officers seize firearms and deadly weapons for safekeeping at a domestic violence scene located on tribal lands?*

Answer: Yes.

Legal mandates under state law, such as seizure of weapons for safekeeping, at a domestic violence scene apply on tribal lands. Other mandates include the following duties to victims: providing a domestic violence resource card, case number and follow up information, and a victim rights' card (Marsy card); providing safe passage out of the residence when needed by a domestic violence victim; offering transportation to a safe location such as a shelter; offering medical care when needed; and offering confidentiality. Similarly, officer mandates including the duty to write a report documenting the suspect's sobriety, prior calls for service, and presence of weapons (Penal Code 13730), also apply on tribal lands.

#### Obtaining Court-Issued Warrants

6. *Can California peace officers obtain a search warrant from a state judge to search for and seize firearms and deadly weapons known to be at the scene of a domestic violence incident but for which law enforcement was unable to secure for safekeeping through plain view, consent, or other lawful means?*

Answer: Yes.

Penal Code 1524(a)(9) permits the state court to issue a search warrant when "property or things to be seized include a firearm or any other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic

violence incident involving a threat to human life or a physical assault as provided in Section 18250.”

7. *Can law enforcement obtain a state search warrant for firearms located on tribal lands in the possession of a person prohibited from possessing them under a restraining or protection order?*

Answer: Yes.

Penal Code 1524(a)(11) provides that a state court may issue a search warrant when “the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.”

8. *Can law enforcement obtain an emergency protective order (EPO) from a state judge for a person who lives on tribal lands, or where an incident of domestic violence, child abuse, child abduction, stalking or elder abuse occurs on tribal lands?*

Answer: Yes.

The state court judge has jurisdiction to issue an EPO for conduct occurring on tribal lands in California, whether or not the parties are tribal members. (Family Code §§6240-6275; Penal Code §646.91). Be aware that California peace officers cannot evict a person from tribal housing, but no-contact, stay-away and related terms are fully enforceable on tribal lands.

California courts do not have jurisdiction to make orders authorizing the alienation, encumbrance, or taxation of any real or personal property belonging to an Indian or tribe that is held in trust by the Federal Government (called “trust property”) or is subject to a restriction

9. *Can California peace officers enter tribal lands to serve an arrest warrant?*

Answer: Yes.

But again, it is recommended that there be operating plans and agreements between state and tribal entities, that California peace officers are aware of such procedures, and that there be an agreed-upon method to notify tribal government officials when action is taken.

*10. Can law enforcement enforce a protection order for domestic violence issued by a tribal court?*

Answer: Yes. courts and law enforcement recognize and enforce protection orders from other jurisdictions as if they were issued in their jurisdiction. These laws allow the protected person to move throughout the United States and its territories without needing to obtain new court orders. (For more detail and relevant code sections, please refer to the Glossary of Terms tool). Orders do not need to be registered or stored in a database to be valid and enforceable.

When enforcing a protection order, California law enforcement should determine the terms and conditions from an official source such as by reading the order or obtaining information from a state or court data base. Failure to do so may result in a false arrest raising civil liability concerns. (For more information, please refer to the Glossary of Terms tool).

*11. How do California peace officers verify that a foreign order, which includes a tribal protection court order, is current and has not been modified?*

Answer: Here are some of the ways:

1. Check in the California Department of Justice's California Restraining and Protective Orders System (CARPOS) through California Law Enforcement Telecommunications System (CLETS). The California Rule of Court 5.386 creates a process to enter tribal and other foreign orders into the state computer system.  
(See [http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5\\_386](http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_386));
2. Check in the Judicial Council of California's California Courts Protective Order Registry (CCPOR) (See <http://www.courts.ca.gov/partners/ccpor.htm>);
3. Contact the issuing court; or
4. Contact the law enforcement agency that is responsible for entering the order.

If the above check list does not provide the California peace officers officer with the necessary information that the foreign/tribal protection order is current, California law authorizes an officer to rely on "other information", which could be the protection order itself. It is worth remembering that a protection order does not need to be registered or stored in a database to be valid and enforceable.

A foreign/tribal court protection order should be enforced if:

1. It appears to be valid on its face (identifies the protected person and the person against whom the order is issued, and is currently in effect);
2. The officer is acting in good faith;

3. There is reasonable cause to believe that the person against whom the order was issued has notice of the order. If the person whom the order is against has not been served or notified of the order, the state officer may inform the person of the order and give him or her a reasonable opportunity to comply with the order before enforcing it; and
4. There is reasonable cause to believe that the person has violated the order.

Under state law there is no civil liability and no cause of action for false arrest or false imprisonment against the officer, if he or she acts pursuant to the above 4 factors and enforces a foreign/tribal protection order.

### Duties to Victims

*12. If a domestic violence incident occurs on tribal lands and involves tribal members, do California peace officers officials owe specific duties to victims?*

Answer: Yes.

Victims of domestic violence whether they are tribal members or not, are owed the same duties as non-Indian victims of domestic violence. These include providing a victim rights' card (Marsy card); providing safe passage out of the residence when needed by a domestic violence victim; offering transportation to a safe location such as a shelter; offering medical care when needed; and offering confidentiality. They are entitled to an advocate and a support person at law enforcement interviews and all other services and assistance as any other domestic violence victim.

Victims who are tribal members may be eligible to use tribal resources including tribal advocates, medical care, and emergency shelter. California peace officers should be familiar with tribal resources and offer them. If for any reason a tribal member does not wish to use tribal resources, she or he should be offered the same resources as other non-tribal victims.

*13. Are tribal members entitled to the protections of the 4<sup>th</sup> Amendment of the US Constitution to be free of unlawful search and seizure?*

Tribal members are entitled to the protections of the Indian Civil Rights Act (ICRA), 25 U.S.C. 1302) which largely mirrors the United States Constitution. Tribal governments may not violate the "rights of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized." 25 U.S.C. 1302(a)(2). ICRA has been extended to the rights of non-Indians while on tribal lands. See United States v. Terry (8<sup>th</sup> Cir., 2005) 400 F. 3<sup>rd</sup> 575 (search and seizure);

United States v. Keys (D.N.D., 2005) 390 F. Supp. 875 (suppression of a statement after an illegal detention).

State officers who take action based on information from tribal representatives including law enforcement should assure that information, detention, and probable cause comport with California standards. Actions based on violations of ICRA violate the Fourteenth Amendment of the U S Constitution and can result in suppression of evidence, allegations of false arrest, and civil actions under state and federal law. People v. Ramirez (2007) 148 Cal. App. 4<sup>th</sup> 1464; State v. Madsen (S.D., 2009) 2009 S.D. 5, 760 N/W. 2d 370.

## Jurisdiction to Arrest in Indian Country

The authority over crimes committed on tribal land can potentially involve multiple law enforcement entities—tribal law enforcement, county/state law enforcement, or federal law enforcement. This chart describes these entities and their authority to detain and arrest. Because tribal sovereignty or self-governance allows for tribes to make laws and enforce them, it is incumbent on county/state/federal law enforcement to meet with their tribal counterparts and learn about the specific tribe’s law enforcement roles and capacities. Do not make assumptions about tribal authority based on tribal officer’s employment status, because a tribe may employ tribal police officers and include casino security in their duties. It would be incorrect and imprudent to assume that if they work at the casino, they are only empowered to observe and report; they may be working in the tribal public safety office and the tribe has authorized them to enforce tribal laws.

<b>Employment Status</b>	<b>Only Have Powers of Private Person</b>	<b>Authority to Enforce State Law</b>	<b>Authority to Enforce Tribal Law</b>	<b>Authority to Enforce Specified Federal Law</b>
Tribal Casino Security Officers+	Varies; tribe determines@@		Varies; tribe determines@@	
Tribal Police Officers+			XX*	
BIA/SLEC (Special LE Commission) Officers+		XX **** (Penal Code § 830.8(a))	XX	XX **
Federal Law Enforcement Officers+		XX (Penal Code § 830.8(a))		XX
CA County Sheriff+		XX		
CA Municipal Police+		XX		
CA Highway Patrol/State Police+		XX		
Tribal Police Deputized by CA County Sheriff+		XX***	XX	

@@ Authority is determined by tribe. The employing tribe may authorize a tribal security officer to cite. They may be authorized to detain a person until the proper state, federal, or tribal officials can take custody.

+ Even if there is no authority to arrest, there is authority to detain for a reasonable time to turn a person over to representatives of an agency that does have jurisdiction to arrest. For example, tribal police may detain a suspect for county or city law enforcement for violating a criminal statute. Duro v. Reina (1990) 495 U.S. 676; Oliphant v. Suquamish Indian Tribe (1978) 435 U.S. 191; United States v. Becerra-Garcia (9th Cir. 2005) 397 F. 3d. 1167; Ortiz-Barraza v. United States (9th Cir. 1975) 512 F. 2d 1176

\*May arrest for violations of tribal laws violated by tribal members, and Indians who are not members of that tribe committed on tribal lands. May also arrest non-Indians for domestic violence, stalking, and violations of protective orders if the subject is a tribal resident, employee, or spouse or intimate partner of a tribal member. (Violence Against Women Reauthorization Act of 2013; §904). Examples of offenses subject to this arrest authority include: Interstate Domestic Violence (18 U.S.C. § 2261(a)); Interstate stalking (18 U.S.C. § 2261A); Interstate Violation of a Protection Order (18 U.S.C. § 2262); and gun and ammunition violations while restrained under a protection order or with a prior qualified domestic violence misdemeanor offense (18 U.S.C. § 922).

\*\* May enforce federal crimes on and off of Indian lands where there is a nexus between the crime and tribal lands. May arrest for violations of federal law they observe off tribal lands and may conduct investigations off of tribal lands. May arrest both Indians and non-Indian suspects.

\*\*\* Extent of authority to arrest for state crimes is limited to deputation authority.

\*\*\*\*Some California counties, such as San Diego and Mendocino, recognize that tribal police officers holding SLECs who have also met POST training standards, may make arrests for violations of state law under CA Penal Code §830.8. (For more information, please contact the San Diego County District Attorney's Office and the Sycuan Tribal Police Department for copies of their MOU).

This Jurisdiction Tool is intended to help clarify legal issues that arise in domestic violence cases occurring in Indian Country. If you need legal advice then please check with your tribal attorney or department's local city attorney or county counsel.



Practice Tips for California Peace Officers

Working in Indian country presents unique law enforcement challenges. Fostering and sustaining good relationships between state and tribal authorities can enhance officer safety, enhance investigation, and improve public safety.

This table may assist in determining how to handle domestic violence issues on tribal lands.

Question	Agreement*	Possible Action?
What is my role?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	First responder—handle same as any other domestic violence case. Request videotape records if relevant. Follow up—handle as any other domestic violence case but note FAQs above when dealing with warrants; request video footage if relevant Other (liaison**, back-up)
Are there any notifications I need to make?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Notification:*** <ul style="list-style-type: none"> <li>• To whom?</li> <li>• When?</li> </ul>
Am I executing a state court arrest warrant?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Follow arrest procedures in compliance with state requirements
Am I executing a state court search warrant?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Follow search procedures in compliance with state requirements
Is there a tribal search warrant that is being contemporaneously executed?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Coordinate
Am I attempting to obtain casino videotape footage where an alleged crime occurred?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Request

\* Such practices are currently in place in San Diego and Riverside Counties.

\*\*Law enforcement agencies in some communities have assigned specific members to be their liaisons with tribal governments, and have found having such contact persons beneficial for maintaining good communication with the tribe, reducing misunderstandings, preventing situations from escalating, and assuring adequate support and back up when needed by California peace officers.

\*\*\* Due to the government to government relationship between tribes and California, consideration should be given to notification of the tribe when safe and practical to do so.

These Practice Tips are intended to help clarify legal issues that arise in domestic violence cases occurring in Indian Country. If you need legal advice then please check with your tribal attorney or department's local city attorney or county counsel.

# **Convening State and Tribal Representatives: Domestic Violence Matters**

## Introduction

Existing state and tribal laws are insufficient to guide the handling of all interactions between state and tribal authorities and their agents. For example, law on service of process leaves gaps and unanswered questions in a way that balances the tribe's sovereignty with the state's responsibility and interest in enforcing criminal law. There are other situations where state and tribal authorities complement one another, by providing stand by and back up at calls for services, or when one detains a suspect for the other. Likewise, state and tribal courts may more effectively handle matters when they work collaboratively, whether on issues of enforcement of domestic violence restraining/protection orders or holding an offender accountable.

Even when there is clear legal precedent, courts and law enforcement will benefit from knowledge of one another, developing personal relationships, and working together. Because of assignment changes and turnover, it is valuable to develop formalized agreements, policies, or protocols and to conduct regular training for law enforcement. Developing such agreements requires that someone convene the meetings. In many cases, that entity has been the courts. Indeed this project has been convened by the Judicial Council's Tribal Court-State Court Forum. California law enforcement agencies and tribal authorities have found it valuable to employ practices that build on existing relationships and support the continuation of good relationships. Significant benefits have flowed from the creation of operating plans that identify agreed-upon methods to notify tribal government officials when certain actions are needed or taken.

Law enforcement agencies in some communities have assigned specific members to be their liaisons with tribal governments, and have found having such contact persons beneficial for maintaining good communication with the tribe, reducing misunderstandings, preventing situations from escalating, and assuring adequate support and back up when needed by California peace officers.

In local communities, it may a judge, local sheriff or tribal police chief, a local governmental official, such as a tribal council member or county council member, or others.

## Goals of Convening

The goal of convening is to develop a seamless response to domestic violence cases so that tribal/state law enforcement cases are handled as routinely as city/county law enforcement cases are. Working effectively together entails respectful interactions between authorities, understanding tribe-specific histories and cultures, and knowledge of available and appropriate services.

The most obvious reasons for convening state, local and tribal leaders are as follows:

1. Education about each other's justice system: governmental structure, courts, laws and rules, traditions and customs, and law enforcement capacity and training.
2. Leveraging and maximizing resources available in the county and through the tribe
3. Problem-solving shared cross-jurisdictional challenges;
4. Agreements and operational guidelines for cross-jurisdictional matters; and
5. Sustained and productive relationships among justice partners and the community.

#### Steps to Convene

1. The initial meeting can be convened by any justice partner, but should include the county sheriff or police chief and that person's tribal counterpart. The tribal government should be asked to identify the tribal members to be involved. Possible county partners might include council members, prosecutors, defense attorneys, advocates (system-based and community-based), mental health, Child and Adult Protective Services, and social services. Tribal partners could include tribal council members, tribal prosecutors, tribal presenting officers, tribal advocates, tribal probation services, tribal social services and mental health, and Indian Health Services.
2. The initial meeting should focus on building relationships and identifying areas of mutual concern targeted for systemic improvement.
3. Some examples of topics to meet about include:
  - a. Notification procedures, such as when tribal leadership should be notified, by whom, and the type of situations when notification is required;
  - b. Available and appropriate services for victims, perpetrators, and family members in the county and through the tribe;
  - c. Education on tribal histories, historical trauma, and resiliencies;
  - d. Training on operations such as legal authority (federal, state, and tribal codes and customary laws), law enforcement capacity and procedures, and training gaps;
  - e. Operational concerns, such as the following:
    - Data: Measuring and sharing calls for response, response times, quality of investigations, and crime statistics;
    - Points of contact: Designating points of contact for the tribe and local law enforcement;
    - Joint communication –when, by whom, limits on what can be disclosed;
    - Access to tribal lands and location of alleged victims;
    - Familiarity and Access to orders- what access is there to a registry system for storing data and images of protective orders?
      - a. Tribal registry or emergency number (outside business hours) to ask if the order is current;

- b. National Crime Information Center;
- c. California Restraining and Protective Order System (CARPOS) through the California Law Enforcement System (CLETS);
- d. California Courts Protective Order Registry (CCPOR);
- f. Community education, such as co-sponsoring events to build relationships with law enforcement, local government, and community members, as well as provide education; and
- g. Protocols and memoranda of understanding to memorialize and sustain successful cooperative efforts.

After the Initial Convening

Jurisdictional conflicts between states and tribes have engendered bitterness and costly litigation. Ongoing and regular meetings may ease such conflicts, avoid future misunderstanding, while supplying much needed services to tribal communities within a problem-solving framework. By meeting regularly, justice partners can build stronger relationships and address problems as they arise, memorializing solutions in agreements and protocols.

Some considerations after the initial convening include identifying:

1. The entity or entities that will convene the collaboration (a tribal and non-tribal entity may want to jointly convene the meeting);
2. The location of the meetings (it is worth considering holding some or all of the meetings on tribal lands);
3. The knowledge and skills needed to sustain the collaboration;
4. The justice partners' knowledge and skills;
5. The gaps in knowledge and skills and develop a strategy to fill those gaps;
6. The facilitation skills within the collaboration; and
7. The staff to help with meetings and implementation of the collaboration's recommendations.

## Resources

1. California Department of Justice, Office of Native American Affairs, <http://ag.ca.gov/nativeamerican/>
2. California Police Officers Standards and Training, <https://www.post.ca.gov/home.aspx>  
For an example of an ongoing county-tribal meeting, see the final segment of “Policing Indian Lands” (2009)  
[http://post.ca.gov/Data/Sites/1/post\\_docs/telecourseprogramguides/Policing%20Indian%20Lands.pdf](http://post.ca.gov/Data/Sites/1/post_docs/telecourseprogramguides/Policing%20Indian%20Lands.pdf)
3. California State Sheriff’s Association, <http://www.calsheriffs.org/index.php/sheriffs-offices>
4. California Tribal Court-State Court Forum, <http://www.courts.ca.gov/forum.htm>  
Cooperative Agreements Information  
<http://www.courts.ca.gov/17422.htm>
5. California Tribal Police Chief’s Association, include website  
Written Testimony of Chief Bill Denke before Indian Law and Order Commission, Feb 16, 2012, available at <http://www.aisc.ucla.edu/iloc/resources/documents/bd-testimony-inidan-lando-commision-final.pdf>
6. International Association of Chiefs of Police (2006) Promising Practices for Improving Safety in Indian Country, available at <http://www.theiacp.org/portals/0/pdfs/IndianCountryReport2006.pdf>. Chapter 2, “Cooperation and Coordination” highlights initiatives in Riverside and Butte Counties and the Attorney General’s Office; chapter 6 “Training and Education” highlights the San Diego County Sheriff’s Office Tribal Liaison Program. Programs and agreements from around the U.S. are included.
7. Tribal Law and Policy Institute  
Promising Strategies: Public Law 280 (March 2013)  
[https://www.walkingoncommonground.org/files/Promising%20Strategies%20280%20Final%203-13\(1\).pdf](https://www.walkingoncommonground.org/files/Promising%20Strategies%20280%20Final%203-13(1).pdf)  
Law Enforcement and Criminal Justice Under Public Law 280 (2007)  
[http://www.tribal-institute.org/download/pl280\\_study.pdf](http://www.tribal-institute.org/download/pl280_study.pdf)  
Cooperative Agreements Information  
<https://www.walkingoncommonground.org/state.cfm?topic=12&state=CA>
8. Tribal Police Links, <http://tribaljurisdiction.tripod.com/id9.html>

# Tribal Court Directory

**Name of Tribal Court:**

1. Does this court serve one or multiple tribes?
2. Please list name(s) of tribe(s):
3. For each tribe, please provide information each tribe is willing to share.
  - Number of acres:
  - Location in name of county/counties:
  - Approximate number of members:
4. For court, please provide information your court is willing to share.
  - Date established:
  - History of the court:
  - Case types currently authorized by each tribe served by the court:
5. Tribal codes in the following subject areas: \_\_\_\_\_
6. How does your court handle appeals?
7. Do the tribes have plans to develop codes to authorize jurisdiction over other case types?  
Which case types?
8. Do the tribes have plans to launch wellness or joint jurisdictional or other types of courts?  
Which types of courts?
9. Court information



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THE JUDICIAL BRANCH OF CALIFORNIA

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[Programs](#) > [Tribal/State Programs](#) > [Tribal Justice Systems](#) > [California Tribal Courts Directory](#)

#### Programs

[Alternative Dispute Resolution \(ADR\)](#)

[Civics Education](#)

[Collaborative Justice Courts](#)

[Court Interpreters Program \(CIP\)](#)

[Criminal Justice Programs](#)

[Domestic Violence](#)

[Equal Access](#)

[Families and Children](#)

[Judicial Administration Fellowships](#)

[JusticeCorps](#)

[Language Access](#)

[Tribal/State Programs](#)

[Tribal Court-State Court Forum](#)  
[Indian Child Welfare Act \(ICWA\)](#)  
[Family Violence](#)  
[California Tribal Communities](#)

[Tribal Justice Systems](#)

[California Tribal Courts Directory](#)  
[Adapting Judicial Council Forms for Tribal Courts](#)  
[Tribal Grants](#)  
[Jurisdiction in Indian Country](#)  
[Resources for Tribal/State Court Collaborations](#)

## California Tribal Courts Directory

[Print](#)

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](#)  
[Hoplund 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.

# Native American Day at the Capitol

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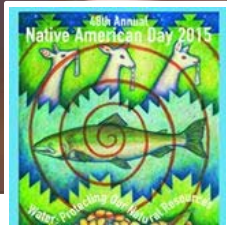
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### 2015 Native American Day • California Native American Day is on Facebook.

To connect with 2015 Native American Day • California Native American Day, sign up for Facebook today.

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## 2015 Native American Day • California Native American Day

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#### PEOPLE

1,557 likes

#### ABOUT

2015 Native American Day at the California State Capitol is held annually on the 4th Friday of each September, and will be held on September 25, 2015.

#### PHOTOS



#### 2015 Native American Day • California Native American Day

September 3 at 1:22pm ·

2015 Native American Day Celebration at the State Capitol on Friday, September 25, 2015.

This event is open is Free and Open to the Public and takes place on the West Steps of the California State Capitol from 10am-2pm

NEW: Arts and Crafts Expo and Food Vendors open to the public from 9am to 3pm selling Indian Tacos and beautifully crafted arts and jewelry....

[See More](#)



Like Comment Share

Alice Miguel, Lupe Trevizo Villa Hdz, California Native Entities and Bigfoot Forum and 24 others like this.

17 shares



California Native Entities and Bigfoot Forum I wish I could be there.

16 hrs



Risnay Shiv Prasad Celina Chavez

September 12 at 1:33pm

#### VISITOR POSTS



Elva Galindo

September 18 at 5:54am

[See photo](#)

[Like](#) · [Comment](#) · [Share](#)



Jued Martinez

September 14 at 9:37pm

Is this a Sanctioned Event and Product Promotion?: <https://www.facebook.com/events/416448121880013/>



#### 2015 Native American Day • California Native American Day

September 3 at 12:55pm · Edited ·

Like · Comment · Share



**Tocho Wahkan**  
September 13 at 10:01pm

Like · Comment · Share

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**Once Were Warriors**



**Tom Waits**



**Wala Amana**

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Facebook © 2015

New Happenings at 2015 Native American Day celebration:  
Friday- September 25, 2015

\*\*\* Arts and Crafts Expo \*\*\* Food Booths serving Indian Tacos by the River Valley Miwoks and Jup's Chow-Wow Food \*\*\*  
Artisans, Crafters and Food booths open at 9am to 3 pm  
10th Street Side of West Steps of State Capitol

Like Comment

Alicia Etcheverry, Jeremy Boughton, Hoka Hawkeyes and 19 others [Top Comments](#) like this.



**Cindy La Marr** Is there an agenda somewhere?  
1 · September 20 at 2:05pm



**2015 Native American Day • California Native American Day** we are working on it, Cindy, send me an email and I send you the program once completed (by Wednesday)  
September 20 at 4:00pm



**Alison LeMeur** Can't wait to attend and be a part of the celebration  
1 · September 3 at 5:37pm

[View 3 more comments](#)



**2015 Native American Day • California Native American Day** updated their cover photo.

August 31 at 4:59pm ·



Like Comment Share

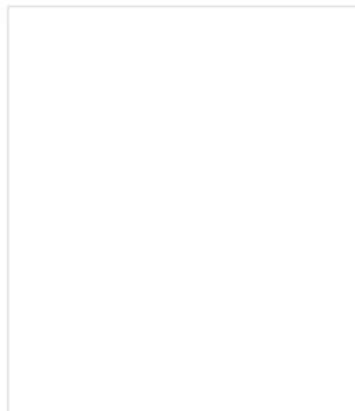
California Native Entities and Bigfoot Forum, Brian N Jacky Calanchini, Terralyn Hamlin and 73 others like this.

53 shares



**2015 Native American Day • California Native American Day** updated their profile picture.

August 31 at 3:55pm ·





Like Comment Share

Shannon Fallis-Kane, Hoka Hawkeyes, Jose Buzo and 94 others like this. [Top Comments](#)

149 shares



**Judy Talaugon** if you come up Douglas Nulton Sr , let me know cousin!  
1 · September 1 at 9:51am · Edited



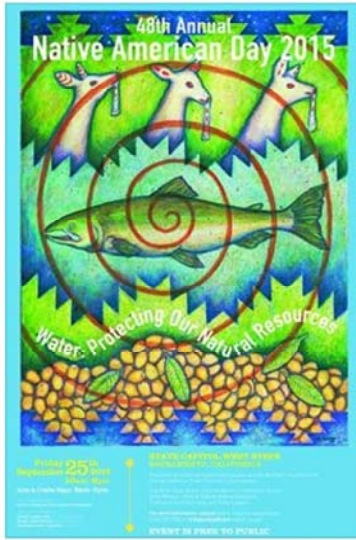
**Em Sedano** this would go better on october 12.  
September 2 at 6:57am

[View 1 more comment](#)



**2015 Native American Day • California Native American Day** added a new photo.

August 31 at 3:54pm ·



Like Comment Share

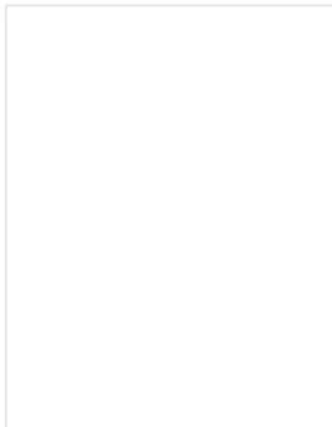
Hoka Hawkeyes, Jose Buzo, Katrina Torres and 23 others like this.

14 shares



**2015 Native American Day • California Native American Day** shared their photo.

July 24 ·





2015 Native American Day • California Native American Day with Johnny Clay

Poster Design by Joseph Arthur • Illustration Artwork by Johnny Clay

Like Comment Share

Alicia Etcheverry, Hoka Hawkeyes, Katrina Torres and 14 others like this.



2015 Native American Day • California Native American Day shared their post.

July 24 ·



2015 Native American Day • California Native American Day

CALLING UPON NATIVE AMERICAN ARTISANS AND CRAFTERS: If you are interested in participating in the Arts and Crafts Expo at the 48th Annual Native American Day Ce...

See More

Like Comment

Katrina Torres, Terry Scheinoha N Tierra and Opa Blackfeather like this.



2015 Native American Day • California Native American Day

July 22 ·

CALLING UPON NATIVE AMERICAN ARTISANS AND CRAFTERS: If you are interested in participating in the Arts and Crafts Expo at the 48th Annual Native American Day Celebration on Friday, September 25, 2015, we have space for 15 commercial vendors.

Authentic and Genuine vendors only please. ... See More

Like Comment

Katrina Torres, Terry Scheinoha N Tierra, Lupe Trevizo Villa Hdz and 2 others like this.

4 shares



2015 Native American Day • California Native American Day with Johnny Clay

July 22 ·

Poster Design by Joseph Arthur • Illustration Artwork by Johnny Clay



Like Comment Share

Katrina Torres, Terry Scheinoha N Tierra, Richard Mesa and 38 others like this. [Top Comments](#)

84 shares



**Johnny Clay** Thank you.  
1 · July 23 at 11:24am



**Dan Denise Shemenski** Awesome!  
1 · July 23 at 11:04am

[View 5 more comments](#)



**2015 Native American Day • California Native American Day**

July 21 ·

48th Annual Senior Native Americay Day sponsored by Coyote Valley Band of Pomo Indians; with co-sponsorship of Hopland Band of Pomo Indians, Pinoleville Pomo Nation, Potter Valley Tribe and Round Valley Tribe on August 1, Coyote Valley Gymnasium 11 AM- 4 PM



Like Comment Share

Katrina Torres, Justin Hoaglen, Shawi N Rose Ellen and 4 others like this.

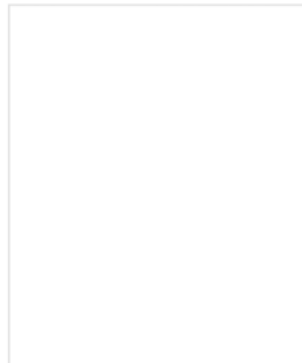
1 share



**2015 Native American Day • California Native American Day with Johnny Clay**

July 17 ·

Water: Protecting our Natural Resources  
48th Annual California Native American Day  
California State Capitol - September 25, 2015 9am-2pm





Like Comment Share

Chuck Kritzon, Katrina Torres, Sanita Ramis Velagic and 29 others like this. [Top Comments](#)

20 shares



**Johnny Clay** Love it

1 · July 22 at 2:10pm



**2015 Native American Day • California Native American Day**

Working on the color correction. Then to Posters , Flyers, Tshirts, and perhaps Clocks.



July 22 at 9:47pm

[View more replies](#)



**Mel Smith** great poster , really a nice job.

July 22 at 2:08pm



**2015 Native American Day • California Native American Day** updated their profile picture.

July 17 ·



Like Comment Share

Katrina Torres, Opa Blackfeather, Shawi N Rose Ellen and 2 others like this.





**2015 Native American Day • California Native American Day**

July 16 ·

On Native Ground received the Award of Excellence, for a second year in a row, from the Native American Journalist's Association.



**NAJA Announces 2015 Award Winners; ICTMN Gets 26 Honors**

The Native American Journalists Association will honor more than 250 members with 2015 Media Awards with ICTMN earning 26.

INDIANCOUNTRYTODAYMEDIANETWORK.COM

Like Comment Share

Katrina Torres, Olga Cid, Stan Padilla and 5 others like this.

1 share



**2015 Native American Day • California Native American Day** shared a link.

June 3 ·



**River of Renewal**

"River of Renewal" tells the story of conflict over the resources of California and Oregon's Klamath Basin. Over the years, different dominant groups have extracted its minerals, trees, and water with disastrous consequences, including the collapse of

CULTUREUNPLUGGED.COM

Like Comment Share

Katrina Torres, Opa Blackfeather, Pirata Macias and 5 others like this.

1 share



**2015 Native American Day • California Native American Day** shared a link.

April 27 ·



**SFSU POW WOW 5-3-15**

YOUTUBE.COM

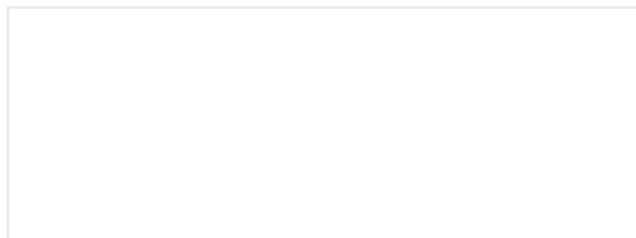
Like Comment Share

Elizabeth Marc likes this.



**2015 Native American Day • California Native American Day** shared The 5th Direction's event.

January 1 ·





21  
JAN

**Sacramento Kings Native American Heritage Night**

Thu 3 AM · Sleep Train Arena · Sacramento, CA  
170 guests

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Katrina Torres, Coleen Scholfield, Holly Carrillo and 9 others like this.

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