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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.¹
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.

¹ 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

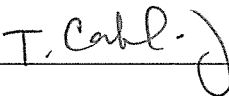
RESOLUTION (Adopted on June 1, 2012)

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.



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



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.
- 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

January 2017

Accomplishments—Highlights (2010-2016)

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, self-help, and other areas.
 - *Forum E-Update*
This monthly electronic newsletter disseminates information to forum members (tribal court judge and state court judges) and forum friends (any interested person) on grant opportunities, publications, news stories, and educational events.
(<http://www.courts.ca.gov/3065.htm>)
 - *Tribal/State/Federal Court Administrator Toolkit*
This toolkit encourages cross-court site visits and to facilitate shared learning among local tribal, state, and federal courts in California. The toolkit is endorsed by the following groups: California Court Clerks Association, California State-Federal Judicial Council, the California Tribal Court Clerks Association, the California Court Executives Advisory Committee, the National Judicial College, and the Tribal Court–State Court Forum.
(<http://www.courts.ca.gov/documents/courttoolkit-tribalstatefederal-adminclerks.pdf>)
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)
 - tribal court directory (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 Innovation and Collaboration Through Judicial Leadership

- Cross-Cultural Court Exchanges

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 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. To date, the Tribal/State Programs staff has assisted tribal and state court judges in convening nine exchanges on the following tribal lands: Bishop Paiute, Hopland, Hoopa, Karuk, Quechan, and Yurok.

- *Documentary on Tribal Justice*

The forum has consulted on and participated in the production of this film, which premiered at the Santa Barbara Film Festival in 2017. This film follows two forum members: Judge Abby Abinanti, Chief Judge of the Yurok Tribe, and Judge Claudette White, Chief Judge of the Quechan Tribe. It shows how they are creating innovative justice systems that focus on restoring rather than punishing offenders in order to keep tribal members out of prison, prevent children from being taken from their communities, and stop the school-to-prison pipeline that plagues their young people. (To learn more about the film and watch a 4 minute trailer, <http://www.makepeaceproductions.com/tribaljustice/spotlight/>)

- *Joint Jurisdictional Court- Family Wellness Court*

The forum, at its first meeting, made it a priority to learn about and replicate the first joint jurisdiction tribal-state court in the nation, the Leech Lake-Cass County Wellness Court. Thanks to a technical assistance grant obtained from the Bureau of Justice Assistance of the Federal Department of Justice and the mentorship of Judge Korey Wahwassuck and Judge John Smith, who started the first joint jurisdictional court in the country, the forum was able to launch a joint jurisdictional court in California. Forum members, Judge Christine Williams, Chief Judge of the Shingle Springs Tribal Court, and Judge Suzanne N. Kingsbury, Presiding Judge of the Superior Court El Dorado County, created the Family Wellness Court.

(<http://www.wellnesscourts.org/files/Shingle%20Springs%20El%20Dorado%20Family%20Wellness%20Court%20Manual.pdf>)

- Local Tribal/State Partnerships

The forum fosters tribal court/state court partnerships, such as the Los Angeles Superior Court's Indian Child Welfare Act Roundtable and the Bay Area Collaborative of American Indian Resources— court-coordinated community response to Indian Child Welfare Act (ICWA) cases in urban areas.

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)

6. Focus on Civil Money Judgments
SB 406: Tribal Court Civil Money Judgment Act, which will simplify and clarify the process by which tribal court civil money judgments are recognized and enforced in California. For Judicial Council reports, see Invitation to Comment 2011: <http://www.courts.ca.gov/documents/LEG11-03.pdf>; Invitation to Comment 2012: <http://www.courts.ca.gov/documents/LEG11-04.pdf>; and Final Report: www.courts.ca.gov/documents/jc-20121214-itemG.pdf. For chaptered bill, see http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_406_bill_20140822_chaptered.pdf. In collaboration with Professor Katherine Florey at the U.C. Davis School of Law, the forum conducted a study on the impact of SB 406 that surveyed state court judges, tribal court judges, and tribal practitioners: <https://www.surveymonkey.com/r/tribalpractitioners>
<https://www.surveymonkey.com/r/statecourts>
<https://www.surveymonkey.com/r/tribalcourts>
Because of this study and the recommendation by the California Law Review Commission, the California Legislature will be considering removing the sunset provision in SB 406.

7. 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)
 - *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)
 - *Domestic Abuse Self-Help Tribal Project*. Assistance for litigants with obtaining restraining orders in tribal courts and state courts. In this project, a nonlawyer works under the supervision of a reviewing attorney to assist the litigant. The attorney can supervise from any location with technology, training, and review of the nonlawyer's work. (www.courts.ca.gov/documents/FactSheetDASH.pdf)
 - *Efficient and Consistent Process*. Following effective local tribal and state court protocols, 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)

- *Jurisdictional Tools for Law Enforcement and Judges*
These educational tools facilitate collaboration among tribal police and county law enforcement. They were developed in collaboration with the following groups: California Department of Justice, California Peace Officers Standards and Training, California Indian Legal Services, California State Sheriff's Association, and the Tribal Police Chief's Association in California.
(<http://www.courts.ca.gov/documents/Tribal-Law-enforcement-tools.pdf>)
- *Information Bulletin on Recognition and Enforcement of Tribal Protection Orders*
Consulted with the California Attorney General's Office regarding access to California Law Enforcement Telecommunications System (CLETS) by tribal courts. This consultation, which included federal and other state justice partners, resulted in an Informational Bulletin issued by the California Department of Justice. This Information Bulletin clarifies that verification of a tribal protection order in any statewide database (for example, the California Law Enforcement Telecommunications System (CLETS)) is not a precondition to recognition and enforcement of these orders.
(http://www.courts.ca.gov/documents/tribal_bulletin-court-protection-orders.pdf)
- *Judicial Toolkit on Federal Indian Law*
(<http://www.courts.ca.gov/27002.htm>)
- *Public Law 280 and Family Violence Curriculum for Judges*
(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)
- *Tribal Communities and Domestic Violence Judicial Benchguide*
(<http://www.courts.ca.gov/documents/Tribal-DVBenchguide.pdf>)

8. Focus on Elder Abuse and Protection Proceedings

- *SB 940: California Conservatorship Jurisdiction Act*, which will address issues involving conservatorships for members of Indian tribes located in California. The forum initiated a joint working group with the California Judicial Council's 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. http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0901-0950/sb_940_bill_20140925_chaptered.pdf

- *Published Tribal Elder Abuse Benchguide* and incorporated into California Judge's Guide: Abuse Later in Life. http://www.courts.ca.gov/documents/Elder_Abuse_Tribal_Communities.pdf

9. 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/SPR11-12.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 introduced by Assemblymember Wesley Chesbro. Chaptered as Stats. 2014, Ch. 37, effective January 1, 2015. (www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1601-1650/ab_1618_bill_20140625_chaptered.pdf)
- *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). (www.courts.ca.gov/documents/Tribal_JC_Comments_CDSS.pdf)
- *Comments in support of proposed rule*: Regulations for State Courts and Agencies in Indian Child Custody Proceedings (as published in the Federal Register on March 20, 2015 (Vol. 80 FR No. 54 14880) (www.courts.ca.gov/documents/Comments_by_JC_to_BIA.pdf))
- *Indian Child Welfare Act rule change*: In response to the California Supreme Court decision in *In re Abbigail A.* (2016) (Cal.5th 83), the forum recommend amending California Rules of Court, rule 5.482, by deleting subdivision (c) of that rule, which the Supreme Court held is invalid. The Family and Juvenile Law Advisory Committee and Probate and Mental Health Advisory Committee joined in this recommendation, and on July 29, 2016, the Judicial Council adopted this recommendation.
- *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)
- *Transfers*: recommended a rule and form proposal to improve the procedure for the transfer of court proceedings involving an Indian child from the jurisdiction of the state court to a tribal court. These changes were 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. SB 1460 requires the state juvenile court to give the tribal court specific information and documentation when a case, governed by the *Indian Child Welfare Act*, is transferred. The *In re M.M.* decision implicates an objecting party's right to appeal a decision granting a transfer to a tribal court. (www.courts.ca.gov/documents/SPR15-27.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)

10. Focus on Parentage

In partnership with the California Department of Public Health-Vital Records, an All County Letter was issued in February 2016 clarifying the statewide policy that all tribal court orders relating to adjudications of facts of parentage would be accepted.

CALIFORNIA TRIBAL COURT–STATE COURT FORUM

January 2017

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 29 members—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 (ex officio); the tribal advisor of the California Governor (ex officio); 1 appellate justice; 7 chairs or their designees of the California Judicial Council’s Family and Juvenile Law Advisory Committee, Access and Fairness Advisory Committee, Center for Judicial Education and Research Governing Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Probate and Mental Health Advisory Committee, and Traffic Advisory Committee; 5 state court judges selected from local courts in counties where tribal courts are situated, and a retired judge (advisory).

One of the forum’s key objectives is to make recommendations to develop 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 inter-jurisdictional issues. 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. These educational programs are listed in chronological order dating from June 2011:

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.
- 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 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.

CALIFORNIA TRIBAL COURT-STATE COURT FORUM

- 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
- 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.

CALIFORNIA TRIBAL COURT-STATE COURT FORUM

- On April 24, 2014, presented on effective tribal/state collaboration at the Alabama-Coushatta Tribe of Texas 4th 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.
- 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.
- June 2, 2015, presented to the State Bar of California Committee of Bar Examiners and the deans of all law schools in California. The topic was including federal Indian law as part of the state bar examination.
- July 27, 2015, convened meeting of law enforcement representatives to develop jurisdictional tools to improve recognition and enforcement of tribal protection orders.
-
- January 6, 2016, convened a cross-cultural court exchange on Yurok Tribal lands to discuss and problem-solve together local court concerns relating to child support cases.

CALIFORNIA TRIBAL COURT-STATE COURT FORUM

- February 1, 2016, presented to the Tribal Subcommittee of the Conference of Chief Justices in Monterey. The workshop promoted projects that enhance collaboration and communication with tribal courts.
- March 15, 2016, presentation and policy discussion about recognition and enforcement of protection orders convened by the California Department of Justice (CA DOJ). In attendance were representatives from U.S.D.OJ, CA DOJ, California Sheriffs Association, Tribal Police Chiefs Association, Tribal Court-State Court Forum, and others. The purpose of the meeting was to advance the policy goal of achieving compliance with federal and state laws governing full faith and credit in the area of domestic violence so that public and officer safety is not compromised. Approximately forty participants attended this meeting.
- April 8, 2016, convened a cross court educational exchange at Hopland for over sixty participants on behalf of the Mendocino Superior Court and the Northern California Intertribal Court System. The focus was domestic violence prevention and child welfare.
- April 28, 2016, forum judges participated in a meeting convened by the National Council of Juvenile and Family Court Judges in North Carolina to develop resources to address ICWA and domestic violence cross-over issues in Indian country.
- June 2-3, 2016, forum hosted a national gathering of tribal/state court forums at the Los Angeles Court of Appeal. This gathering was in collaboration with the Tribal Law and Policy Institute.
- June 8-9, 2016, forum held its annual in-person meeting, which also serves as an educational program. Topics covered included: (1) forum project updates; (2) national and statewide focus on the Indian Child Welfare Act; (3) funding opportunities through the Bureau of Indian Affairs and the Health and Human Services Department; (4) state of tribal courts after recent United States Supreme Court decisions; (5) continuum of care reform; (6) local tribal/state/county collaborations; (7) national level news and programs; (8) planning two statewide ICWA Roundtables; and (9) discussion of forum priorities. Forty judges will be participating. Invited guests included representatives from Casey Family Programs and the National American Indian Court Judges Association.
- September 13, 2016, forum presented to the Commission on Access to Justice.
- October 26, 2016, forum convened a cross court educational exchange in Klamath on child support. This was the second exchange between the Yurok Tribe and the California State Department of Social Services focusing on child support that took place on the Yurok reservation. Participants discussed and problem-solved together local justice systems' concerns relating the transfer of title IV-D child support cases from state court to tribal court. The result of this exchange was a policy change in the form of a court rule governing transfer of child support cases between tribal and state courts.
- December 5, 2016, forum sponsored two programs:
 - (1) Pre-Institute ICWA Roundtable

This Roundtable brought together California tribal and state court judges as well as nationally known experts to explore, through interactive case scenarios, legal topics such as new federal mandates under ICWA, recent case law developments, and how to avoid

reversals in these cases. The focus was on practical implications of recent development to juvenile child welfare courts in California. The Roundtable complemented the Juvenile Law Institute workshop on ICWA

(2) Juvenile Law Institute Workshop on ICWA

This workshop will cover the new comprehensive federal ICWA regulations, which will become effective December 12, 2016. In addition, the workshop will cover key cases, including the two important California Supreme Court cases and highlight important practice changes as a result of the new federal requirements.

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 and 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 domestic violence and how to navigate the state court system. 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
- 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
- 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*.

CALIFORNIA TRIBAL COURT-STATE COURT FORUM

- 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.
http://www.courts.ca.gov/documents/Elder_Abuse_Tribal_Communities.pdf
- Published Tribal/State/Federal Court Administrator Toolkit.
This toolkit encourages cross-court site visits and to facilitate shared learning among local tribal, state, and federal courts in California. The toolkit is endorsed by the following groups: California Court Clerks Association, California State-Federal Judicial Council, the California Tribal Court Clerks Association, the California Court Executives Advisory Committee, the National Judicial College, and the Tribal Court–State Court Forum.
<http://www.courts.ca.gov/documents/courttoolkit-tribalstatefederal-adminclerks.pdf>
- Published Job Aid for Judges on ICWA.
http://www.courts.ca.gov/documents/ICWA_New-federal-regulation.pdf

Ongoing Educational Activities

- [S.T.E.P.S to Justice— Child Welfare](#): State/Tribal Education, Partnerships, and Services— Information for Tribal Court and State Court Judges. The brochure describes local educational services and other technical assistance for tribal and state court judges.
- [S.T.E.P.S. to Justice- Domestic Violence](#): State/Tribal Education, Partnerships, and Services—Information for Tribal Court and State Court Judges. The brochure describes local educational services and other technical assistance for tribal and state court judges.
- 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.)

For More Information

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



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FACT SHEET

January 2017

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 2016-2017

The forum plans activities relating to policies, education, and partnerships on an annual basis. These activities are contained in the forum's work plan or annual agenda, which can be found here: www.courts.ca.gov/documents/forum-annual.pdf.

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,
415-865-7687

Additional resources:

www.courts.ca.gov/forum.htm and www.courts.ca.gov/3065.htm



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FACT SHEET

January 2017

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 2016-2017

The unit's activities include:

- Tribal Court-State Court Forum projects listed in its annual agenda;
- Judicial education and resources on federal Indian law;
- State/Tribal Education, Partnerships, and Services—Child Welfare;
- State/Tribal Education, Partnerships, and Services— Domestic Violence.
- 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 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.

www.courts.ca.gov/3065.htm and www.courts.ca.gov/forum.htm

Education and Legal Services on Federal Indian Law

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/27002.htm

S.T.E.P.S. to Justice- Child Welfare

This unit provides education, technical assistance, and resources to comply with the Indian Child Welfare Act in juvenile dependency and delinquency cases, family custody and probate guardianship cases.

www.courts.ca.gov/3067.htm

S.T.E.P.S. to Justice- Domestic Violence

This unit provides local educational and technical assistance relating to domestic violence and focusing on tribal/state/county collaboration.

www.courts.ca.gov/documents/STEPS_toJustice-DV.pdf

Clearinghouse of Resources

- California's Tribal Communities
www.courts.ca.gov/3066.htm
- Tribal Justice Systems
Resources on tribal courts and for tribal courts
www.courts.ca.gov/3064.htm
- Family Violence and Tribal Communities
Resources relating to domestic violence
www.courts.ca.gov/14851.htm

- Professional Resources
 - California Tribal Courts Directory (www.courts.ca.gov/14400.htm)
 - California Tribal Court Map (<http://g.co/maps/cvdq8>)
 - Statewide Directory of Native American Services (www.courts.ca.gov/5807.htm)
 - California Toolkit for Tribal/State/Federal Court Administrators and Clerks (www.courts.ca.gov/documents/courttoolkit-tribalstatefederal-adminclerks.pdf)

Funding

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

Contact:

Jennifer Walter, Supervising Attorney and Forum Counsel, jennifer.walter@jud.ca.gov,
415-865-7687

Additional resources:

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



California Rules of Court (Revised January 1, 2014)

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.

Tribal Court–State Court Forum (forum)
Annual Agenda—2017
Approved by E&P: _____

I. ADVISORY BODY INFORMATION

Chair:	Hon. Abby Abinanti, Chief Judge, Yurok Tribal Court and Hon. Dennis M. Perluss, Presiding Justice, Court of Appeal, Second Appellate District, Division Seven
Staff:	Ms. Jennifer Walter, Supervising Attorney, Center for Families, Children & the Courts
Advisory Body’s Charge: <p>The forum makes recommendations to the Judicial 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">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, and the sharing of services among 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; and5. 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. <p>[Excerpted from California Rules of Court, rule 10.60]</p>	

Advisory Body's Membership:

Twenty-nine positions—29 members representing the following categories:

- Thirteen tribal court judges (nominated by their tribal leadership, representing 13 of the 23 tribal courts currently operating in California; these courts serve approximately 39 tribes)
- Director of the California Attorney General's Office of Native American Affairs (ex officio)
- Tribal Advisor to the California Governor (ex officio)
- One appellate justice
- Seven chairs or their designees of the following Judicial Council advisory committees:
 - Access and Fairness Advisory Committee
 - Governing Committee of the Center for Judicial Education and Research (CJER)
 - Civil and Small Claims Advisory Committee
 - Criminal Law Advisory Committee
 - Family and Juvenile Law Advisory Committee
 - Probate and Mental Health Advisory Committee
 - Traffic Advisory Committee
- Five trial court judicial officers (selected from local courts in counties where tribal courts are situated and one from Los Angeles*)
- One retired judge (advisory)

*Judge D. Zeke Zeidler, who was originally appointed as the designee of the Access and Fairness Advisory Committee, is finishing out his term, which expires on September 14, 2017.

Subgroups/Working Groups: None

Advisory Body's Key Objectives for 2017:

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.

II. ADVISORY BODY PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	<p>Policy Recommendations:</p> <p>A. Legislation</p> <p><i>Major Tasks:</i></p> <p>(i) Indian Child Welfare Act (ICWA): Review newly adopted <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015 (Vol. 80 FR No. 54 14880) approved Bureau of Indian Affairs Guidelines (as published in the Federal Register on December, 30, 2016 (Vol. 81 FR No. 251 96476), and statewide Indian Child Welfare Task Force Report on the Indian Child Welfare for possible recommendations to the Judicial Council for sponsored legislation or legislative positions on bills</p>	1(a)	<p>Judicial Council Direction:</p> <p>Strategic Plan Goal I: Access, Fairness, and Diversity</p> <p>Operational Plan Objective 2: Identify and eliminate barriers to court access at all levels of service; ensure interactions with the court are understandable, convenient, and perceived as fair.</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>	January 1, 2019	Recommendations submitted to the Judicial Council for consideration by the Legislature and the Governor.

¹ 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.

² 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 ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>that will be introduced to comply with the federal law.</p> <p>(ii) Judge-to-Judge Communications: Develop legislative proposal modeled after California Code of Civil Procedure section 1740, which authorizes a state court, after notice to all parties, to attempt to resolve any issues raised regarding a tribal court judgment by contacting the tribal court judge who issued the judgment. The proposal would also require a court to permit the parties to participate in the judge-to-judge communication and to prepare a record of any communication with the tribal court.</p> <p>(iii) Make recommendation to implement a streamlined process to recognize and enforce non-money judgments issued by a tribal court (incremental strategy building on the success of council-sponsored legislation, SB 406, see page 16 for status of project).</p> <p>(iv) Explore use of state funding in connection with the service of process or notices for state court domestic violence restraining</p>	2	<p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence Operational Plan Objective 4</p> <p>Origin of Project: Forum</p> <p>Resources: Forum and Policy Coordination and Liaison Committee (PCLC)</p> <p>Judicial Council Staffing: Center for Families, Children & the Courts (CFCC) and Governmental Affairs</p> <p>Key Objective Supported: 1</p>		

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	orders to pay for service of tribal protection orders.				
2.	<p>Policy Recommendation: B. Rules and Forms – ICWA</p> <p>Review newly adopted <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015, (Vol. 80 FR No. 54 14880) and approved Bureau of Indian Affairs Guidelines (as published in the Federal Register on December, 30, 2016, (Vol. 81 FR No. 251 96476) for possible amendments to Title 5. Family and Juvenile rules relating to the ICWA.</p>	1(a)	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: Federal Law</p> <p>Resources: Family and Juvenile Law Advisory Committee and Forum</p> <p>Judicial Council Staffing: CFCC and LS</p> <p>Key Objective Supported: 1</p>	January 1, 2018	Rule and form recommendations that comply with federal rules and guidelines implementing ICWA
3.	<p>Policy Recommendation: C. Rule and Forms – Juvenile Records</p> <p>Revise California Rules of Court, rule 5.552 to conform to the requirements of subdivision (f) of section 827 of the Welfare and Institutions Code, which was added effective January 1, 2015, to clarify the right of an Indian child’s tribe to have access to the</p>	1(a)	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: Justice partners have commented that the rule is</p>	January 1, 2018	Rule recommendations that comply with statute.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	juvenile court file of a case involving that child. At that time, no changes were made to California Rules of Court, rule 5.552, which implements section 827 of the Welfare and Institutions Code. Contrary to section 827 as amended, rule 5.552, continues to require that representatives of an Indian child’s tribe petition the juvenile court if the tribe wants access to the juvenile court file. This inconsistency has created confusion.		<p>contrary to statute and has created confusion.</p> <p>Resources: Family and Juvenile Law Advisory Committee and Forum</p> <p>Judicial Council Staffing: CFCC and LS</p> <p>Key Objective Supported: 1</p>		
4.	<p>Policy Recommendation: D. Rule and Forms – Child Support</p> <p>Revise California Rule of Court, rule 5.372 in response to the need for consistent procedures for determining the orderly transfer of title IV-D child support cases from the state court to the tribal court when there is concurrent subject matter jurisdiction. Since implementation of the rule of court, over 40 cases have been considered for transfer between the state courts in Humboldt and Del Norte counties and the Yurok Tribal Court. The Yurok Tribe intends to seek transfer of cases currently under the jurisdiction of state court in the</p>	1(a)	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: This proposal grew out of the cross-court educational exchange convened by Judge Abinanti and Judge Wilson. Representatives of the State Department of Child Support Services, local county child support agencies, the tribal child support program, the tribal court, the state</p>	January 1, 2018	Rule recommendations that implement federal law.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>following counties: Lake, Mendocino, Shasta, Siskiyou, and Trinity. In addition, at least one other tribe located in Southern California is expected to soon begin handling title IV-D child support cases. Based on the experience with the transfers that have taken place so far, the participants of a cross-court educational exchange have suggested amendments to rule 5.732 to streamline the process, reduce confusion, and ensure consistency and efficient use of court resources.</p>		<p>courts, and Judicial Council staff met to review the case transfer procedures; and justice partners proposed a number of revisions to improve the transfer process.</p> <p>Resources: Family and Juvenile Law Advisory Committee and Forum</p> <p>Judicial Council Staffing: CFCC and LS</p> <p>Key Objective Supported: 1</p>		
5.	<p>Policy Recommendation: E. Tribal Access to the Child Abuse Central Index (Index)</p> <p>The Index is used to aid law enforcement investigations and prosecutions, and to provide notification of new child abuse investigation reports involving the same suspects and/or victims. Information is also used to help screen applicants for licensing or employment in child care facilities, foster homes, and adoptive homes. The purpose of allowing access to this information on a statewide basis is to quickly provide authorized agencies, including tribal agencies, with relevant information</p>	2	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III: Operational Plan Objective 5</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4</p> <p>Origin of Project: California Indian Legal Services brought this topic of mutual concern to tribal and state courts to the forum's attention at one of its meetings. Resources: Forum and California Department of Justice</p>	2017	California Department of Justice to give tribal access to the Index and local tribal and county child welfare agencies to share relevant information from the Index.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>regarding individuals with a known or suspected history of abuse or neglect. While tribal agencies can obtain information from the Index, they cannot readily submit information to the Index.</p> <p>This practice poses several problems: (1) suspected or known abusers may remain in the home of a child posing safety risks; (2) unnecessary duplication of effort by agencies; (3) delays in entry into the Index due to double investigations; and (4) barriers to sharing information among tribal and nontribal agencies that should be working together to protect children. The forum recommends exploring executive branch action to permit tribal access to the Index.</p>		<p>Judicial Council Staffing: CFCC</p> <p>Key Objective Supported: 1</p>		
6.	<p>Policy Recommendations:</p> <p>F. Technological Initiatives</p> <p><i>Major Tasks:</i></p> <p>(i) Recommend Judicial Council continue giving tribal courts access to the California Courts Protective Order Registry (CCPOR).</p> <p>(ii) Explore development of an electronic application to improve inquiry and notice under ICWA.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III:</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) State and tribal courts will be able to see each other's protective orders, to avoid conflicting orders, and to promote enforcement of these orders.</p> <p>(ii) Application will be developed and will improve inquiry and notice practices under ICWA.</p>

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Strategic Plan Goal VI:</p> <p>Operational Plan Objective 4: Implement new tools to support the electronic exchange of court information while balancing privacy and security.</p> <p>Origin of Project: Forum</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC and Information Technology</p> <p>Collaborations: Stanford Design Center</p> <p>Key Objective Supported: 1</p>		
7.	<p>Policy Recommendation: G. Other</p> <p><i>Major Tasks:</i> (i) Prepare a request to the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics to amend the canons to permit with appropriate safeguards a judge who sits concurrently on a tribal court and a state court to fundraise on behalf of a tribal court.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal II Operational Plan Objective 3</p> <p>Origin of Project: Forum cochair</p> <p>Resources: Forum and California Supreme Court’s Advisory Committee on the Code of Judicial Ethics</p> <p>Judicial Council Staffing: CFCC</p>	2017	<p>Request prepared and submitted.</p> <p>Amended canon permitting judges who sit concurrently on tribal court and a state court to fundraise on behalf of a tribal court.</p>

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	(ii) Make recommendation to the California State Bar Association to waive pro hac vice fees for out-of-state counsel representing tribes in ICWA cases.		Collaborations: Key Objective Supported: 2 Increase Tribal/State partnerships that identify issues of mutual concern and proposed solutions.		
8.	Increase Tribal/State Partnerships: A. Sharing Resources and Communicating Information About Partnerships <i>Major Tasks:</i> (i) Identify Judicial Council and other resources that may be appropriate to share with tribal courts. (ii) Identify tribal justice resources that may be appropriate to share with state courts. (iii) Identify grants for tribal/state court collaboration. (iv) Share resources and information about partnerships through Forum E-Update, a monthly electronic newsletter. (v) Publicize these partnerships at conferences, on the Innovation Knowledge Center (IKC), and at other in-person or online venues.	2	Judicial Council Direction: Strategic Plan Goal I: Access, Fairness, and Diversity Operational Plan Objectives 1, 2, 4: <ul style="list-style-type: none"> • 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. • Expand the availability of legal assistance, advice and representation for litigants with limited financial resources. Strategic Plan Goal IV: Quality of Justice and Service to the Public. Operational Plan Objectives 1, 3: <ul style="list-style-type: none"> • Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes. 	Ongoing	Increased Tribal/State partnerships for sharing resources and communicating information.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<ul style="list-style-type: none"> Develop and support collaborations to improve court practices to leverage and share resources and to create tools to educate court stakeholders and the public. <p>Origin of Projects: Forum and California State-Federal Judicial Council</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>		
9.	<p>Increase Tribal/State Partnerships:</p> <p>B. Education and technical assistance to promote partnerships and understanding of tribal justice systems</p> <p><i>Major Tasks:</i></p> <p>(i) Make recommendation to Judicial Council staff to continue providing educational and technical assistance to local tribal and state courts to address</p>	2	<p>Judicial Council Direction:</p> <p>Strategic Plan Goal I Operational Plan Objectives 1, 2, 4</p> <p>Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council</p> <p>Resources: Forum</p>	Ongoing	Increased Tribal/State partnerships for educational and technical assistance.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>domestic violence and child custody issues in Indian country.</p> <p>(ii) Make recommendation to Judicial Council staff to provide technical assistance to evaluate the joint jurisdictional court and to courts wishing to replicate the model.</p> <p>(iii) Make recommendation to the Judicial Council staff to continue developing civic learning opportunities for youth that exposes them to opportunities and careers in tribal and state courts.</p> <p>(iv) Make recommendation to explore, at the option of tribes, opportunities for state and federal court judges to serve as a tribal court judge.</p>		<p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>		
10.	<p>Increase Tribal/State Partnerships:</p> <p>C. Tribal/State collaborations that increase resources for courts</p> <p>Develop and implement strategy to seek resources for tribal/state collaborations.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Origin of Projects: Forum</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>	Ongoing	Tribal/State collaborations that increase resources for courts.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
11.	<p>Education: A. Judicial Education</p> <p><i>Major Tasks:</i></p> <p>(i) In collaboration with the CJER Curriculum Committees, consult on and participate in making recommendations to revise the CJER online toolkits so that they integrate resources and educational materials from the forum’s online federal Indian law toolkit. Forum judges are working together with committee representatives from the following curriculum committees: (1) Access, Ethics, and Fairness, (2) Civil, (3) Criminal, (4) Family, (5) Juvenile Dependency and Delinquency, and (6) Probate.</p> <p>(ii) Develop a ten-minute mentor video on the Information Bulletin relating to the recognition and enforcement of tribal protection orders, issued by the California Office of the Attorney General. This Information Bulletin was the culmination of work by the forum in partnership with the California Department of Justice (DOJ), the California State Sheriffs’ Association, the U.S. Attorney</p>	2	<p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1: Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council Resolution (June 1, 2012)</p> <p>Resources: CJER, Forum, and DOJ</p> <p>Judicial Council Staffing: CFCC and CJER</p> <p>Key Objective Supported: 3</p>	Ongoing, completion date depends on funding.	CJER toolkits, located on the Judicial Resources Network, will be updated to include federal Indian law. Ten-minute educational video to be posted online and shared statewide with justice partners.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	General's Office, and other justice partners.				
12.	<p>Education: B. Education –Documentary</p> <p>Having consulted on and participated in the production of a documentary about tribal justice systems in California, the forum will be exploring ways to use the film to educate judges and justice partners on tribal justice systems. The forum will consider consulting on the development of online curriculum to complement the film.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council Resolution (June 1, 2012)</p> <p>Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p> <p>Key Objective Supported: 3</p>	2017	Wide distribution of the film and use of training materials that complement the film.
13.	<p>Education C. Truth and Reconciliation</p> <p>Consider collaboration among the three branches of state government in partnership with tribal governments to promote a truth and reconciliation project that acknowledges California's history, as described in Professor Benjamin Madley's book, An American Genocide: The United States and the California Indian Catastrophe, with respect to indigenous peoples, fosters an understanding of our shared history, and lays a foundation</p>	2	<p>Judicial Council Direction: Strategic Plan Goal I Operational Plan Objectives 1, 2, 4</p> <p>Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1</p> <p>Origin of Projects: Forum Resources: Forum</p> <p>Judicial Council Staffing: CFCC</p>		

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	for reconciliation, which promotes a call to action.		Collaborations: Tribal Governments and State Government Key Objective Supported: 2		

III. STATUS OF 2016 PROJECTS:

[List each of the projects that were included in the 2016 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
1.	<p>Policy Recommendations:</p> <p>A. Legislative Study SB 406, Judicial Council-sponsored legislation, included a “sunset” provision (Code of Civ. Proc. § 1742) providing that the legislation will expire on January 1, 2018, unless legislative action is taken to extend it.</p> <p>B. Promote Policy The California Department of Public Health would not issue a birth certificate based on a tribal parentage order. The forum worked with the executive branch to issue an agency directive that would recognize tribal parentage orders.</p>	<p>A. October 6, 2016/Study completed and upon recommendation by the California Law Review Commission, Legislature is likely to remove the sunset provision.</p> <p>B. February 9, 2016/California Department of Public Health – Vital Records (CDPH-VR) issued an All County Letter clarifying its policy regarding the acceptance of Tribal Court Orders relating to adjudications of facts of parentage.</p>
2.	<p>Policy Recommendation:</p> <p>C. Rules and Forms–Indian Child Welfare Act (ICWA)</p> <p>1. In response to the California Supreme Court decision in <i>In re Abbigail A.</i> (2016) (Cal.5th 83), the forum recommend amending California Rules of Court, rule 5.482, by deleting subdivision (c) of that rule, which the Supreme Court held is invalid. The Family and Juvenile Law Advisory Committee and Probate and Mental Health Advisory Committee joined in this recommendation, and on July 29, 2016, the Judicial Council adopted this recommendation.</p> <p>2. Forum reviewed pending <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015, (Vol. 80 FR No. 54 14880) and approved Bureau of Indian Affairs Guidelines (as published in the Federal Register on December 30, 2016, (Vol. 81 FR No. 251 96476) for possible amendments to Title 5. Family and Juvenile rules relating to ICWA.</p>	<p>1. July 29, 2016/Effective date of August 15, 2016</p> <p>2. Ongoing</p>

3.	<p>Policy Recommendations:</p> <p>D. Technological Initiatives</p> <ol style="list-style-type: none"> 1. Consulted with the California Attorney General’s Office regarding access to California Law Enforcement Telecommunications System (CLETS) by tribal courts. This consultation, which included federal and other state justice partners, resulted in an Informational Bulletin issued by the California Department of Justice. This Information Bulletin clarifies that verification of a tribal protection order in any statewide database (e.g., CLETS) is not a precondition to recognition and enforcement of these orders. 2. Recommended Judicial Council staff continue giving tribal courts access to the California Courts Protective Order Registry (CCPOR). 3. Due to lack of staffing resources, the forum did not explore the development of an electronic application to improve inquiry and notice under ICWA. 	<ol style="list-style-type: none"> 1. November 29, 2016/Information Bulletin issued by the California Department of Justice. 2. Ongoing 3. Project will be undertaken next year if prioritized by the forum.
4.	<p>Policy Recommendation:</p> <p>E. Other</p> <p>Due to lack of staffing resources and competing priorities, the forum did not prepare a request to the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics to amend the canons to permit a judge who sits concurrently on a tribal court and a state court to fundraise on behalf of a tribal court.</p>	<p>Project will be undertaken next year if prioritized by the forum.</p>
5.	<p>Increase Tribal/State Partnerships:</p> <p>A. Sharing Resources and Communicating Information About Partnerships</p> <ol style="list-style-type: none"> 1. 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: <ul style="list-style-type: none"> • Grant opportunities; • Publications; 	<p>Ongoing</p>

	<ul style="list-style-type: none"> • News stories; and • Educational events. <p>2. Fostered tribal court/state court partnerships, such as the Superior Court of Los Angeles County’s Indian Child Welfare Act Roundtable and the Bay Area Collaborative of American Indian Resources—court-coordinated community response to ICWA cases in urban areas.</p>	
6.	<p>Increase Tribal/State Partnerships:</p> <p>B. Education and Technical Assistance to Promote Partnerships and Understanding of Tribal Justice Systems</p> <ol style="list-style-type: none"> 1. Continue to provide the State/Tribal Education, Partnerships, and Services (S.T.E.P.S.) to Justice—Domestic Violence and Child Welfare programs and provide local educational and technical assistance services. 2. Continue the first joint jurisdictional court in California. The Superior Court of El Dorado County, in partnership with the Shingle Springs Band of Miwok Indians, is operating a family wellness court. Next year, will provide technical assistance to evaluate the joint jurisdictional court. (See Court Manual). 3. Establish partnership between the Superior Court of Humboldt County and the Yurok Tribal Court to develop a civics learning opportunity for youth in the region. 	Ongoing
7.	<p>Increase Tribal/State Partnerships:</p> <p>C. Tribal/State Collaborations that Increase Resources for Courts</p> <p>Obtained funding from the U.S. Department of Justice, Office on Violence Against Women, which is administered through the California Office of Emergency Services (Cal OES). This funding pays for the S.T.E.P.S. to Justice—Domestic Violence and 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</p>	Ongoing

	<p>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.</p> <p>Obtained funding from the California Department of Social Services. This funding pays for the associated travel expenses for forum members to improve compliance with ICWA.</p>	
8.	<p>Education</p> <p>A. Judicial Education</p> <ol style="list-style-type: none"> 1. Made recommendations to CJER to incorporate federal Indian law into all appropriate educational publications and programming for state court judges and advise on content; revisions to include federal Indian law; and the inter-jurisdictional issues that face tribal and state courts. 2. Convened a cross-court educational exchange at Hopland for over 60 participants on behalf of the Superior Court of Mendocino County and the Northern California Intertribal Court System. The focus was domestic violence prevention and child welfare. 3. Participated in a meeting convened by the National Council of Juvenile and Family Court Judges to develop resources to address ICWA and domestic violence cross-over issues in Indian country. 4. Hosted a national gathering of tribal/state court forums at the Second Appellate District of the Court of Appeal in Los Angeles. 5. Held annual in-person meeting, which also serves as an educational program. 6. Presented to the California Commission on Access to Justice. 7. Convened a cross-court educational exchange in Klamath on child support. 	<ol style="list-style-type: none"> 1. Ongoing, completion date depends on resources to incorporate recommendations. 2. December 2016 3. April 2016 4. June 2016 5. June 2016 6. September 2016 7. October 2016

	<p>8. Prepared a judicial job aid on the new federal regulations and guidelines on ICWA.</p> <p>9. Sponsored two judicial educational programs:</p> <p>(1) Pre-Institute ICWA Roundtable This roundtable brought together California tribal and state court judges as well as nationally known experts to explore, through interactive case scenarios, legal topics such as new federal mandates under ICWA, recent case law developments, and how to avoid reversals in these cases. The focus was on practical implications of recent development to juvenile child welfare courts in California. The roundtable complemented the Juvenile Law Institute workshop on ICWA</p> <p>(2) Juvenile Law Institute Workshop on ICWA This workshop covered the new comprehensive federal ICWA regulations, which became effective December 12, 2016. In addition, the workshop discussed significant recent cases, including two important California Supreme Court cases, and highlighted important practice changes as a result of the new federal requirements.</p>	<p>8. November 2016</p> <p>9. December 5, 2016</p>
9.	<p>Education</p> <p>D. Documentary Consult on and participate in the production of a documentary describing tribal justice systems and highlighting collaboration between these systems and the state justice system.</p>	<p>February 2017/Documentary is completed. Accepted for distribution through Corporation for Public Broadcasting, Point of View series. Submission to film festivals pending.</p>
10.	<p>Education</p> <p>E. ICWA Roundtable Cosponsored the Pre-Institute ICWA Roundtable (see item 8 above) in collaboration with CASEY Family Programs and the National American Indian Judges Association.</p>	<p>December 5, 2016</p>

IV. Subgroups/Working Groups - Detail

Subgroups/Working Groups: *None*

Tribal Court-State Court Forum

As of February 2017

Hon. Dennis M. Perluss, Co-Chair

Presiding Justice of the Court of Appeal
Second Appellate District, Division Seven

Hon. Leonard P. Edwards (Ret.)

Volunteer Mentor Judge of the
Center for Families, Children & the Courts
Judicial Council of California

Hon. Abby Abinanti, Co-Chair

(Yurok)
Chief Judge of the Yurok Tribal Court
Klamath, California

Hon. Kimberly A. Gaab

Assistant Presiding Judge of the Superior Court of
California,
County of Fresno

Hon. April E. Attebury

(Karuk)
Chief Judge of the Karuk Tribal Court
Yreka, California

Hon. Michael Golden

Chief Judge of the Morongo Tribal Court
Banning, California

Hon. Richard C. Blake

(Tolowa Dee-Ni', Hoopa and Redding Rancheria)
Chief Judge of the Tolowa Dee-Ni' Nation,
Hoopa and Redding Rancheria Tribal Court
Hoopa, Redding, and Smith River,
California

Hon. Cynthia Gomez

(Tule River Yokut Tribe)
Tribal Advisor of the Office of Governor
Edmund G. Brown, Jr.
Sacramento, California

Hon. Hilary A. Chittick

Judge of the Superior Court of California,
County of Fresno

Mr. Olin Jones

(The Chickasaw Nation of Oklahoma)
Director of the Office of Native American
Affairs, California Attorney General's Office
Sacramento, California

Ms. Jacqueline Davenport

Assistant Court Executive Officer
Superior Court of California,
County of El Dorado

Hon. Mark A. Juhas

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

Hon. Gail Dekreon

Judge of the Superior Court of California,
County of San Francisco

Hon. Lawrence C. King

Chief Judge of the Colorado River Indian Tribes
Parker, Arizona

Tribal Court-State Court Forum

As of February 2017

Hon. Suzanne N. Kingsbury

Presiding Judge of the Superior Court of California,
County of El Dorado

Hon. John H. Sugiyama

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

Hon. William Kockenmeister

Chief Judge of the Bishop Paiute Indian
Tribal Court
Bishop, California

Hon. Allen H. Sumner

Judge of the Superior Court of California,
County of Sacramento

Chief Judge of the Washoe Tribal Court
Gardnerville, California

Hon. Sunshine S. Sykes

Judge of the Superior Court of California,
County of Riverside

Hon. Anthony Lee

(St. Regis Mohawk Tribe)
Chief Judge of the San Manuel Tribal Court
Highland, California

Hon. Juan Ulloa

Judge of the Superior Court of California,
County of Imperial

Hon. Patricia Lenzi

Chief Judge of the Cedarville Rancheria of Northern
Paiute Indians Tribal Court
Alturas, California

Hon. Claudette C. White

(Quechan)
Chief Judge of the Quechan Tribal Court
Winterhaven, California

Hon. Lester J. Marston

(Chiricahua and Cahuilla)
Chief Judge of the Blue Lake
Rancheria Tribal Court
Blue Lake, California

Hon. Christine Williams

(Yurok)
Chief Judge of the Shingle Springs Tribal Court
Shingle Springs, California

Hon. Mark Radoff

Chief Judge of the Chemehuevi Tribal Court
Havasu Lake, California

Hon. Christopher G. Wilson

Assistant Presiding Judge of the Superior Court of
California,
County of Humboldt

Tribal Court-State Court Forum

As of February 2017

Hon. Joseph J. Wiseman

Chief Judge of the Dry Creek Rancheria Band of Pomo Indians
Santa Rosa, California

Chief Judge of the Northern California Intertribal Court System
Hopland, California

Hon. Daniel Zeke Zeidler

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

INFORMATION TECHNOLOGY ADVISORY COMMITTEE LIAISON

Hon. Joseph J. Wiseman

Chief Judge of the Dry Creek Rancheria Band
Chief Judge of the Northern California Intertribal Court System

TRIAL COURT PRESIDING JUDGES AND COURT EXECUTIVES ADVISORY COMMITTEES LIAISON

Hon. Suzanne N. Kingsbury

Presiding Judge of the Superior Court of California, County of El Dorado

JUDICIAL COUNCIL STAFF TO THE COMMITTEE

Ms. Jennifer Walter

Supervising Attorney
Center for Families, Children & the Courts
Operations and Programs Division
Judicial Council of California

Ms. Carolynn Bernabe

Administrative Coordinator
Center for Families, Children & the Courts
Operations and Programs Division
Judicial Council of California

Forum Meeting Schedule

2017

Date	Deadline for Materials
1. February 16, 2017 (in-person)	February 6, 2017 (in person)
2. April 13, 2017	April 3, 2017
3. June 8, 2017	May 28, 2017
4. August 17, 2017	August 7, 2017
5. October 12, 2017	October 2, 2017
6. December 14, 2017	December 4, 2017



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

JUDICIAL AND COURT OPERATIONS SERVICES DIVISION

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

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

MEMORANDUM

Date	Action Requested
February 2017	Please Review
To	Deadline
Tribal Court–State Court Forum Members	NA
From	Contact
Hon. Abby Abinanti, Cochair	Jennifer Walter, Supervising Attorney
Hon. Dennis M. Perluss, Cochair	415-865-7687 phone
Tribal Court–State Court Forum	415-865-7217 fax
	jennifer.walter@jud.ca.gov
Subject	
Welcome and Orientation Packet	

We are pleased to welcome you back as a member 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 several of the enclosures were drafted as stand-alone documents, some of the content is repeated.)

Please find enclosed the following materials in the left side of your folder: (1) press release; (2) principles and values; (3) state/federal tribal courts collaboration resolution; (4) communication plan; (5) forum's accomplishments; (6) forum education; (7) factsheets describing the forum and the tribal/state programs, a grant-funded unit of the AOC's Center for Families, Children, & the Courts, which staffs the forum; (8) rule 10.60 of the California Rules of Court (rule governing the forum); (9) forum's annual agenda describing its objectives, key projects, and working groups; (10) a membership roster; and (11) forum conference call schedule. Our conference calls alternate between the second and third Thursday of the month. To assist you with calendaring these teleconferences, we will be sending you outlook invitations; please accept these emails to update your calendars.

Please find enclosed the following materials in the right side of your folder: (1) this cover memo; (2) the California Judicial Branch's tribal projects and advisory committee homepage, which includes a drop-down page for 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) jurisdictional issues in California Regarding Indians and Indian Country; (6) recognition and enforcement of tribal protective orders; and (7) steps to justice on domestic violence and child welfare.

We look forward to working with you, and hope that you will be able to join us at our next forum conference call on April 13th from 12:15–1:15 p.m.

Advisory Bodies

To provide leadership for advancing the consistent, impartial, independent, and accessible administration of justice, the Judicial Council must be aware of the issues and concerns confronting the judiciary, as well as appropriate solutions and responses. The council carries out this mission primarily through the work of its internal committees, advisory committees, and task forces. See below for more information about each of the groups.

For meetings subject to [California Rules of Court 10.75](#), notices and agendas will be posted five business days before the meeting and materials for an open meeting will be posted three business days before the meeting.

Internal Committees

[Executive & Planning Committee](#)
[Judicial Branch Budget Committee](#)
[Judicial Council Technology Committee](#)
[Litigation Management Committee](#)
[Policy Coordination and Liaison Committee](#)
[Rules and Projects Committee](#)

Advisory Committees

Refer to [Rule 10.34 Duties and responsibilities of advisory committees](#).

[Administrative Presiding Justices Advisory Committee](#)
[Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch](#)
[Advisory Committee on Providing Access & Fairness](#)
[Appellate Advisory Committee](#)
[Civil and Small Claims Advisory Committee](#)
[Civil Jury Instructions Advisory Committee](#)
[Collaborative Justice Courts Advisory Committee](#)
[Court Executives Advisory Committee](#)
[Court Facilities Advisory Committee](#)
[Court Interpreters Advisory Panel](#)
[Court Security Advisory Committee](#)
[Criminal Jury Instructions Advisory Committee](#)
[Criminal Law Advisory Committee](#)
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[Governing Committee of Center for Judicial Education and Research \(CJER\)](#)
[Information Technology Advisory Committee](#)
[Judicial Branch Workers' Compensation Program Advisory Committee](#)
[Probate and Mental Health Advisory Committee](#)
[Shriver Civil Counsel Act Implementation Committee](#)
[Traffic Advisory Committee](#)
[Trial Court Budget Advisory Committee](#)
[Trial Court Facility Modification Advisory Committee](#)
[Trial Court Presiding Judges Advisory Committee](#)
[Tribal Court-State Court Forum](#)
[Workload Assessment Advisory Committee](#)

Task Forces and Other Advisory/Working Groups

Refer to [Rule 10.70. Task forces and other advisory bodies](#).

[Court-Ordered Debt Task Force](#)
[Language Access Plan Implementation Task Force](#)
[Small Court Dependency Workload Working Group](#)

Advisory Group Archive

Judicial Council working groups and task forces "sunset" after their final recommendations are presented to the council. The service of the following groups has expired; they are listed here for reference.

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

[Blue Ribbon Commission on Children in Foster Care](#)

[Commission for Impartial Courts](#)

[Domestic Violence Practice and Procedure Task Force](#)

[Elkins Family Law Task Force and Implementation Task Force](#)

[Joint Working Group for California's Language Access Plan](#)

[Mental Health Issues Implementation Task Force](#)

[Self-Represented Litigants Task Force](#)

[Task Force on Trial Court Fiscal Accountability](#)

[Technology Planning Task Force](#)

CALIFORNIA TRIBAL COURT–STATE COURT FORUM

March 2012

Native American Statistical Abstract: Population Characteristics

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

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

National Tribal Population

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

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

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

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

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

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

California Tribal Population

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

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

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

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

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

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

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

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

County Tribal Populations

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

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

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

Source: 2000 U.S. Census

Education and Household Income

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

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

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

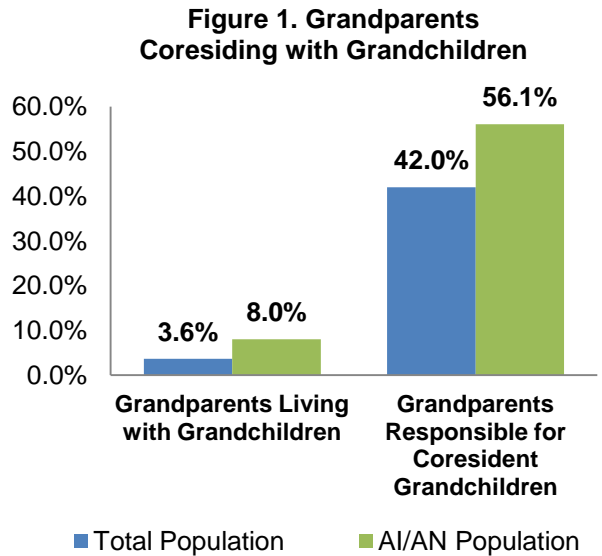
¹⁴ U.S. Census Bureau's American FactFinder, Census 2000, Summary File 2 and Summary File 4, "Census 2000 Demographic Profile Highlights: Selected Population Group: American Indian and Alaska Native alone."

¹⁵ *Ibid*

¹⁶ *Ibid*

Households and Families

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



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

¹⁸ *Ibid.*

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

²⁰ *Ibid.*

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The 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.¹

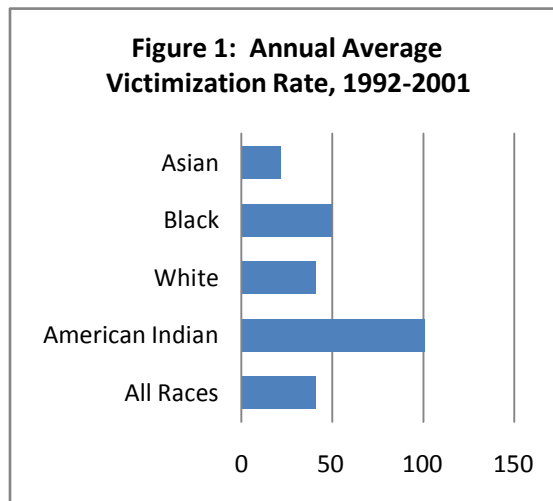
General Trends²

- Rates of violent victimization³ for both males and females are higher among American Indians than for any other race.

¹ 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).

² 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.



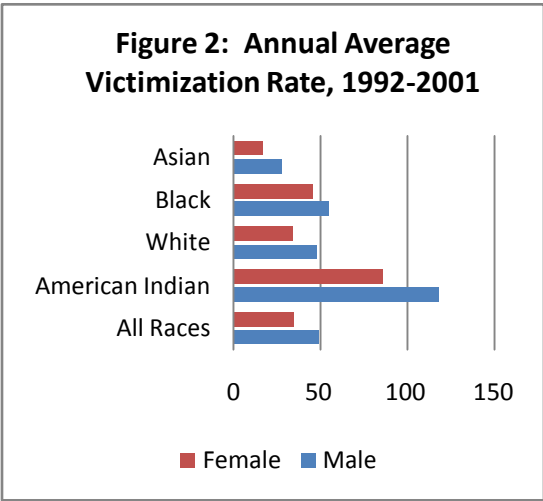
- Among persons in the 55 or older category, the American Indian victimization rate was 22 per 1,000, versus the overall rate of 8 per 1,000.
- Note that the average annual victimization rate reported through 2001 has decreased substantially in younger (12–44) age groups, but stayed the same or increased 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 ⁴			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.

³ 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.

⁴ 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 1992–2005⁵

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

⁵ 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.⁶
- 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.⁷
- 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.⁸

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.⁹
- 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.¹⁰
- 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).

⁶ Perry, *supra*.

⁷ 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).

⁸ 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.

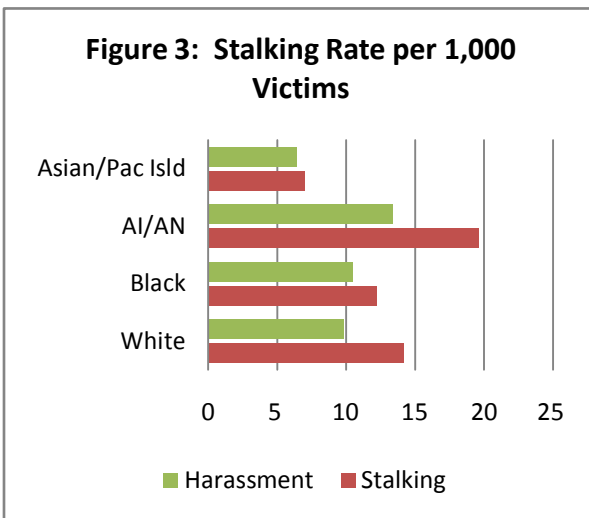
⁹ –Intimate victimizations and –intimate violence refer to victimizations involving current and former spouses, boyfriends, and girlfriends. –Family victimizations and –family violence refer to victimizations involving parents, siblings and other relatives.

¹⁰ 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 1992–2005¹¹

	Percent of Victimizations in Which Victim Was Injured	Percent of Injuries Requiring Medical Care
Total Population	61%	41%
AI/AN	70%	56%
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.¹²



- 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.¹³
- 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.¹⁴

- 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).

¹¹ Bachman, et al, *supra*, p. 49.

¹² 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 (as of Sept. 28, 2011).

¹³ Amnesty International, *supra*, p. 49.

¹⁴ 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):¹

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

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

Tribal Security Officers

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

Tribal Police Officers

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

Federally Deputized Police Officers

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

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

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

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

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

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

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

³ Id.

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

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

Table 1
Tribal Law Enforcement Functions – 2002⁶

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

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

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

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

Table 2
Juvenile Justice – 2002

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

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

Respondents could select more than one category.

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

Access to Criminal History/Justice Statistics

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

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

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

Tribal Courts⁹

What is a Tribal Court?

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

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

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

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

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

Table 3
Tribal Justice Systems - 2002

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

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

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

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

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

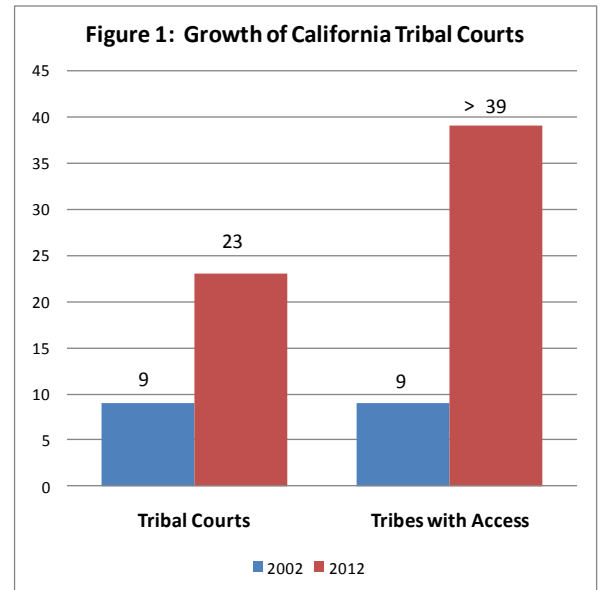


Table 5: Case types heard by California tribal courts¹²

<p><u>Civil/Probate</u> Civil complaints for monetary damages/Small claims Civil disputes Conservator issues Contract disputes Dog/Animal control Evictions/land disputes/possession of tribal lands Game fish and wildlife management Housing matters (unlawful detainer) Name & birth certificate changes Probate</p>	<p><u>Administrative</u> Building codes Elections Employment Enrollment Administrative procedures matters Appeals from tribal ordinances</p> <p><u>Criminal</u> Criminal offenses Environmental offenses Peace/security code violations Nuisance Torts Traffic Trespass</p>	<p><u>Family Law</u> Dissolution of marriage Domestic relations Domestic violence restraining orders Protection/Restraining orders</p> <p><u>Juvenile</u> Juvenile delinquency Juvenile wellness court Truancy Child abuse and neglect guardianships</p>
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¹¹ To locate a Tribal Court in California, use the AOC Tribal Court Directory (<http://www.courts.ca.gov/14400.htm>). For a map of these courts, go to <http://g.co/maps/cvdq8>

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

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

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

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

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

¹³ The full text of the TLOA is available at:

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

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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

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

May 2015

Jurisdictional Issues in California Regarding Indians and Indian Country

California Indian Tribes and Territory

California currently has approximately 110 federally recognized tribes,¹ with nearly 100 separate reservations or rancherias.² In addition there are currently 81 groups petitioning for federal recognition.³ In the 2010 census roughly 725,000 California citizens identified as American Indian or Alaska Native either alone or in combination with other ethnicities.⁴ 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

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

² 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.

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

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

U.S.C. § 1360 regarding civil jurisdiction and 18 U.S.C. § 1162 regarding criminal jurisdiction.⁵

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

⁵ See attached statutes.

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

Offender	Victim	Jurisdiction
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 ⁶ 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.

⁶ Violence Against Women Act

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 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:

State or Territory of	Indian country affected
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
innesota	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

(g) It shall be unlawful for any person—

(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.

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

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, see *Native American Statistical Abstract: Violence and Victimization*
www.courts.ca.gov/documents/Tribal-NAmericanStatsAbstract.pdf.

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

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

Full faith and credit. Both VAWA and California law mandate full faith and credit for protection 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 protection order issued by a tribal or sister-state court is entitled to full faith and credit and enforcement and does not need to be registered in California.

What challenges may hinder VAWA enforcement in tribal matters?

In practice, despite the full faith and credit mandate, many law enforcement agencies and officers will not enforce a protection order unless it is viewed in the California Restraining and Protection Orders System (CARPOS) through the California Law Enforcement Telecommunication System (CLETS).

What is the solution?

Law enforcement practice is changing through education. The California Office of the Attorney General issued an Information Bulletin, which was the result of the work of the California Tribal Court-State Court Forum, in partnership with the California Department of Justice (DOJ), the California State Sheriffs' Association, the U.S. Attorney General's Office, and other justice partners. Learn more at www.courts.ca.gov/documents/tribal_bulletin-court-protection-orders.pdf

The work-around solution implemented through rule 5.386 of the California Rules of Court, which requires state courts, on request by a tribal court, to adopt a written procedure

or local rule permitting the fax or electronic filing of any tribal court protection order entitled under Family Code section 6404 to be registered, should no longer be necessary.

How do courts learn about each other's protection orders?

Through the California Courts Protection Order Registry, courts 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.

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) or the tribal jurisdictions map (<http://q.co/maps/cvdq8>).

Are there Native Americans in my county?

- California has the largest population of Native Americans than any other state and accounts for 12 percent of the total Native American population in the United States.
- Only 3 percent of California's Native Americans live on a reservation or rancheria.
- More than half of the Native Americans living in California are members of tribes located outside of California.
- Cherokee is the largest tribal population in California (18 percent), followed by Apache (6 percent), Navajo (5 percent), and Choctaw (5 percent).

For detailed statistics and citations, see
*Native American Statistical Abstract:
Population Characteristics*
[http://www.courts.ca.gov/documents/resu
p_pop_072511_final.pdf](http://www.courts.ca.gov/documents/resu_p_pop_072511_final.pdf).

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, participate in justice system meetings, and learn about each other's court and procedures.
- Convene cross-jurisdictional meetings with law enforcement and other justice partners.
- Jointly conduct local or regional trainings.
- Ask for access to the California Courts Protection Order Registry.
- Understand the unique historical trauma responses of Native Americans.

Where can I find 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 Projects Unit or for assistance, call Jennifer Walter at 415-865-7687 or visit

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

Tribal/State Programs Unit
Center for Families, Children & the Courts
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JUDICIAL COUNCIL
OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION

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Recognition and Enforcement of Tribal Protection Orders

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

Tribal/State Programs Unit
Center for Families, Children & the Courts

January 2017

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

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

How to learn about local tribal courts and state courts?

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

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

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

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

FOR MORE INFORMATION

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

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

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

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

November 2014



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

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

What is the extent of the problem of domestic violence?

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

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

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

What type of local educational assistance is offered?

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

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

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

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

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

Looking for services for Native American children and families?

www.courts.ca.gov/5807.htm

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

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

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

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

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

FOR MORE INFORMATION

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

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

www.courts.ca.gov/3067.htm

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S.T.E.P.S. TO JUSTICE— CHILD WELFARE

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

March 2015



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

What is ICWA?

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

Why is it relevant today?

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

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


What legal services are offered?

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

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

What court services are offered?

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



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

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

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