

Are there Native Americans in my county?

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

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

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

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

* www.courts.ca.gov/documents/resup_pop_072511_final.pdf

FOR MORE INFORMATION

The Tribal Projects Unit, a program of the AOC'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 with issues related to a tribal matter, call Jennifer Walter at 415-865-7687 or visit www.courts.ca.gov/programs-tribal.htm

RECOGNITION AND ENFORCEMENT OF TRIBAL PROTECTIVE ORDERS

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

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

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

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

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

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

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

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

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

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

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

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

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

What solutions exist to these challenges?

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

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

California Courts Protective Order Registry.

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

Is there a tribal court in my jurisdiction?



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 court map (<http://g.co/maps/cvdq8>).