

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 www.courts.ca.gov/documents/resup_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.

FOR MORE INFORMATION

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

To learn more about the Tribal/State Programs Unit or for assistance with issues related to a tribal matter, call Ann Gilmour at 415-865-4207 or visit www.courts.ca.gov/programs-tribal.htm

RECOGNITION AND ENFORCEMENT OF TRIBAL PROTECTION ORDERS

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

2017

Copyright © 2017 by Judicial Council of California



Judicial Council of California
Center for Families, Children & the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3688
415-865-4200
www.courts.ca.gov



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

This pamphlet is intended to help tribal court and state court judges learn more about the recognition and enforcement of each other's 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 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 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, 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 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, is no longer necessary for law enforcement purposes.

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

Through the California Courts Protective 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?

