

# CALIFORNIA TRIBAL COURT–STATE COURT FORUM

## Frequently Asked Questions: Indian Tribes and Tribal Communities in California

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

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

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

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

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

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

### 1. How many California tribes are there?

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

### 2. Where are the tribes located?

California’s tribes are everywhere throughout the state, including

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

3. How many Native Americans reside in California?

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

4. How large are the California tribes?

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

5. Why is the Native American population so diverse?

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

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

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

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

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

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

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

#### 7. What tribal programs are in place today?

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

- Intertribal organizations provide a wide range of services ranging from referrals to advocacy in child custody proceedings.
- Several intertribal organizations license foster homes for placement of children who enter the system.
- As more tribal courts develop, tribes will assert jurisdiction over a range of case types. For information tribal justice systems in California, see <http://www.courts.ca.gov/3064.htm>.
- Many tribes have made Indian child welfare a priority and are active participants in local roundtables and alliances to improve communication and cooperation in Indian child welfare matters.