

CALIFORNIA TRIBAL COURT-STATE COURT FORUM

January 2016

Accomplishments—Highlights (2010-2015)

Below are some of the key accomplishments of the forum:

1. Sharing of Resources: judicial education and technical assistance to support each other's court capacity to meet the needs of its citizens. Resources have extended to areas of court forms, collaborative justice, court security, grants, human resources, protective order database information, supervised visitation, and self-help.
2. Developing New Resources: curriculum on civil and criminal jurisdiction in a Public Law 280 state, educational offerings at tribal and state court sponsored trainings, updates to existing judicial curriculum and benchguides, and creation of a website to serve as a clearinghouse of resources.
3. Collection of Tribe-Specific Data and Information
 - population characteristics
(<http://www.courts.ca.gov/documents/Tribal-ResearchUpdate-NAStats.pdf>)
 - domestic and other violence and victimization statistics
(www.courts.ca.gov/documents/NatAmStatsAbUpdate.pdf)
 - 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 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 through the use of 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, effective July 1, 2012, the Judicial Council adopted rule 5.386, which provides that state courts, when requested by a tribal court, must adopt a written procedure or local rule to permit the fax or electronic filing of any tribal court protective order that is entitled to be registered under Family Code section 6404. (www.courts.ca.gov/documents/SPR11-53.pdf)
 - *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>)
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.
7. Focus on Elder Abuse and Protective 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*
http://www.courts.ca.gov/documents/Elder_Abuse_Tribal_Communities.pdf

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

- *Appeals*: developed a rule proposal to revise the rule governing sending the record in juvenile appeals to clarify that, if an Indian tribe has intervened in a case, a copy of the record of that case must be sent to that tribe. The Judicial Council adopted the rule proposal, effective January 1, 2013.
(www.courts.ca.gov/documents/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)
- *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)

9. Focus on Fostering Collaboration

- *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 six exchanges on the following tribal lands: Bishop Paiute, Hoopa, Karuk, Quechan, and Yurok.
- *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.
- *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.



NEWS RELEASE

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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 Coalition

May 18, 2010

Tribal Court Members

- Hon. Abby Abinanti, Chief Judge of the Yurok Tribal Court
- Hon. Richard C. Blake, Chief Judge of the Hoopa Tribal Court and Presiding Judge of the Smith River Rancheria Tribal Court
- Hon. Anthony J. Brandenburg, Chief Judge of the Intertribal Court of Southern California
- Hon. Michael Golden, Chief Judge of the Morongo Tribal Court and Chief Judge of the Redding Rancheria Tribal Court
- Hon. Charles N. Henry, Chief Judge of the Karuk Tribal Court
- Hon. William Kockenmeister, Chief Judge of the Bishop Paiute Indian Tribal Court
- Hon. Lester J. Marston, Chief Judge of the Blue Lake Rancheria Tribal Court

State Court Members

- Hon. Jerilyn L. Borack, Judge of the Superior Court of California, County of Sacramento and Cochair of the Family and Juvenile Law Advisory Committee
- Hon. Richard D. Huffman, Associate Justice of the Court of Appeal, Fourth Appellate District, Division One
- Hon. Susan D. Huguenor, Judge of the Superior Court of California, County of San Diego and Cochair of the Family and Juvenile Law Advisory Committee
- Mr. Olin Jones, Director of the Office of Native American Affairs, California Attorney General's Office
- Hon. James R. Lambden, Associate Justice of the Court of Appeal, First Appellate District, Division Two, and Chair of Access and Fairness
- Hon. Dennis M. Perluss, Presiding Justice of the Court of Appeal, Second Appellate District, Division Seven, and Chair of the Civil and Small Claims Advisory Committee
- Hon. Steven Z. Perren, Associate Justice of the Court of Appeal, Second Appellate District, Division Six, and Chair of the Criminal Law Advisory Committee
- Hon. Deborah A. Ryan, Commissioner of the Superior Court of California, County of Santa Clara, and Chair of the Traffic Advisory Committee
- Hon. Dean Stout, Judge of the Superior Court of California, County of Inyo
- Hon. Juan Ulloa, Judge of the Superior Court of California, County of Imperial
- Hon. Christopher G. Wilson, Presiding Judge of the Superior Court of California, County of Humboldt

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 <i>N</i> =89	Non-California <i>N</i> =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).

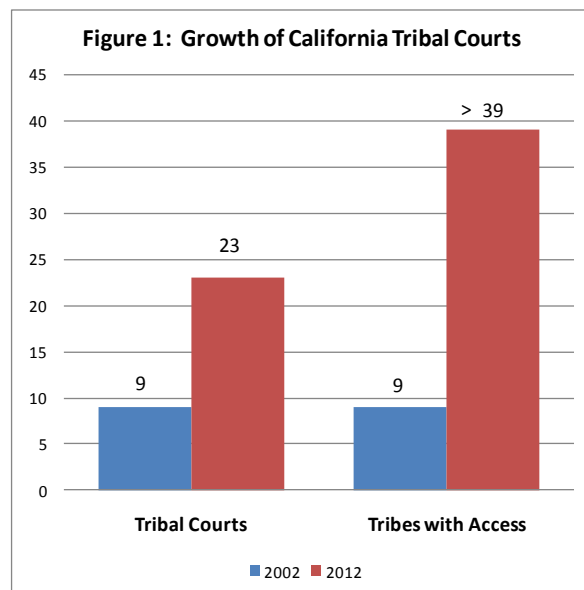


Table 5: Case types heard by California tribal courts¹²

<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	<u>Administrative</u> Building codes Elections Employment Enrollment Administrative procedures matters Appeals from tribal ordinances <u>Criminal</u> Criminal offenses Environmental offenses Peace/security code violations Nuisance Torts Traffic Trespass	<u>Family Law</u> Dissolution of marriage Domestic relations Domestic violence restraining orders Protection/Restraining orders <u>Juvenile</u> Juvenile delinquency Juvenile wellness court Truancy Child abuse and neglect guardianships
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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.



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FACT SHEET

October 2015

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 2015-2016

The forum activities for this fiscal year include coordinating information and resource sharing, developing a rule proposal, educational projects, promoting tribal/state protocols and implementing other collaborative initiatives.

- Resource sharing
 - Coordinate information and resource sharing through a monthly electronic newsletter (the Forum E-Update <http://courts.ca.gov/3065.htm>), resource booths at the Native American Day at the Capitol and the 14th National Indian Nations Conference, cross-court cultural exchanges, and the development of a documentary on tribal justice systems.
 - Promote the sharing of protective order information between tribal and state courts through the use of the California Court Protective Order Registry (CCPOR), a state judicial branch database, which contains complete and up-to-date information on restraining and protective orders, including order images.

- Collaboration
 - Promote cross-court site visits between court personnel and to facilitate shared learning among local tribal, state, and federal courts in California through the Tribal/State/Federal Court Administrator Toolkit.
 - Promote State/Tribal Education, Partnerships, and Services— Domestic Violence.
 - Promote State/Tribal Education, Partnerships, and Services—Child Welfare.
- Education
 - Review state judicial educational publications and programming and make recommendations for content changes to address questions of federal Indian law and advise on the creation of new judicial educational tools to assist state court judges in addressing issues relating to federal Indian law.
 - Plan and serve as faculty for educational sessions on the forum, effective tribal/state collaboration, and legal topics of interest to tribal and state court judges (to view all forum educational activities <http://courts.ca.gov/documents/Tribal-Forum-RelatedEdActivities.pdf>).
 - Develop and disseminate jurisdictional tools for judges and justice partners.
- Policies
 - Develop local rules and protocols to promote collaboration and promising practices and address where state and tribal court jurisdiction overlap.
 - Recommend legislation, rule, and form changes to address issues of mutual concern to tribal and state courts.
 - Recommend technological advances to avoid redundant and conflicting orders between tribal courts and state courts.

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Additional resources:

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