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FACT SHEET

January 2016

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.

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.

Tribal Court-State Court Forum

Page 4 of 4

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Additional resources:

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

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.

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."

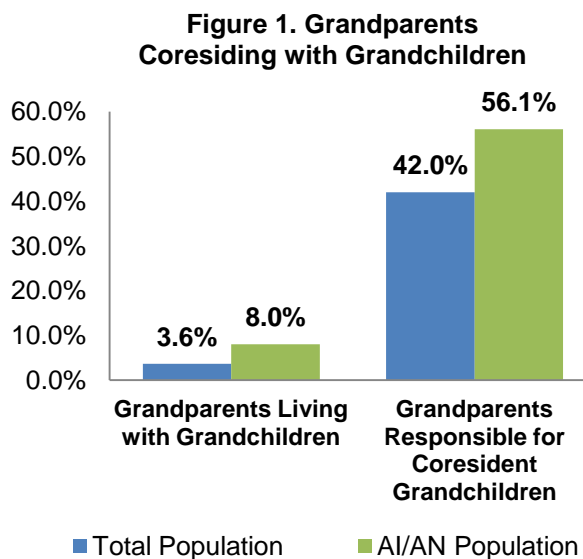
¹⁴ U.S. Census Bureau's American FactFinder, Census 2000, Summary File 2 and Summary File 4, "Census 2000 Demographic Profile Highlights: Selected Population Group: American Indian and Alaska Native alone."

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 Center for Families, Children & the Courts generates and distributes research-based information that has promise for informing the work of the courts in California and nationwide. To learn more about its work and to see more *Research Updates*, visit <http://www.courts.ca.gov/cfcc-publications.htm>.

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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

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).

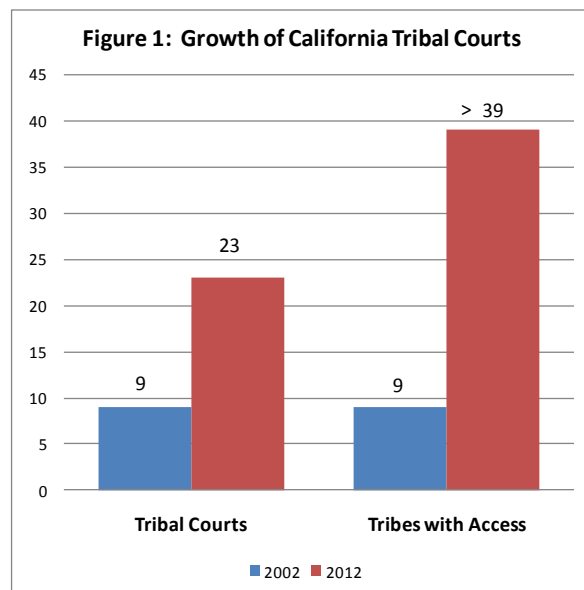


Table 5: Case types heard by California tribal courts¹²

<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.