

# CALIFORNIA TRIBAL COURT/STATE COURT FORUM

## ANNOUNCEMENTS

### **Violence Against Women Act (VAWA) Reauthorization: Signed March 7, 2013**

VAWA now provides tribes with the authority to hold domestic violence perpetrators accountable for their crimes against native women—regardless of the perpetrator's race. Under these new tribal-jurisdiction provisions, tribes can prosecute non-Indians only for domestic violence, dating violence, and violations of protective orders. Crimes between two strangers, or between two non-Indians, or committed by a person with no ties to the tribe, would not be covered. Defendants would effectively have the same rights to free appointed counsel meeting federal constitutional standards, and the right to an impartial jury with the jury pool reflecting a fair cross-section of the entire community, including non-Indians. Defendants can protect their rights by appealing their convictions to a tribal court and filing a habeas petition in federal court.

The landmark legislation partially overturns *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978). The tribal provisions of VAWA 2013 do not constitute a full restoration of all tribal criminal jurisdiction—only that which qualifies as “special domestic violence criminal jurisdiction.” So there must be an established intimate-partner relationship to trigger the jurisdiction. The scope of the restored jurisdiction is quite narrow. First, the legislation only applies to crimes of domestic violence and dating violence when the victim is an Indian and the crime occurs in Indian Country. Thus, it applies to a narrow category of persons who have established a marriage or intimate relationship of significant duration with a tribal member. Second, for a non-Indian to be subject to tribal court jurisdiction, the prosecuting tribe must be able to prove that a defendant: (1) resides in the Indian country of the participating tribe; (2) is employed in the Indian country of the participating tribe; or (3) is a spouse or intimate partner of a member of the participating tribe.

This legislation is significant because an overwhelming majority of domestic violence perpetrators are non-native. Federal statistics show that Native women are 2.5 times more likely to be raped or sexually assaulted than women in the U.S. in general, and more than one in three will be raped during their lifetimes. In 86 percent of reported rapes or sexual assaults on Native women, the perpetrators are non-native; this disparity is not typical of any other ethnicity since perpetrators are usually found to be the same race as the victim. (See link

<http://www.courts.ca.gov/documents/Tribal-AmericanStatsAbstract.pdf> )

### **Celebration of the Violence Against Women Act (VAWA) Reauthorization**

Forum members volunteered to assist forum member, Judge Gomez, with planning for the Annual Native American Day, scheduled for September 25, 2013, in Sacramento at the Capitol. As part of that day's events, participants will celebrate VAWA 2013.

## Forum E-Update

MARCH 2013

### CALIFORNIA TRIBAL COURT/STATE COURT FORUM

HON. RICHARD C. BLAKE  
Cochair

HON. DENNIS M. PERLUSS  
Cochair

Hon. Abby Abinanti  
Hon. April E. Attebury  
Hon. Mitchell L. Beckloff  
Hon. Jerilyn L. Borack  
Hon. Anthony J. Brandenburg  
Hon. Leonard P. Edwards (Ret.)

Volunteer Mentor Judge

Hon. Kimberly A. Gaab  
Hon. Michael Golden  
Hon. Cynthia Gomez  
Mr. Olin Jones  
Hon. Suzanne N. Kingsbury  
Hon. William Kockenmeister  
Hon. James R. Lambden  
Hon. Anthony Lee  
Hon. Lester J. Marston  
Hon. Robert Moeller  
Hon. David E. Nelson  
Hon. Kimberly J. Nystrom-Geist  
Hon. Deborah A. Ryan  
Hon. Deborah L. Sanchez  
Hon. Dean T. Stout  
Hon. Allen H. Sumner  
Hon. Juan Ulloa  
Hon. Claudette C. White  
Hon. Christine Williams  
Hon. Christopher G. Wilson  
Hon. Joseph J. Wiseman  
Hon. Sarah S. Works

# CALIFORNIA TRIBAL COURT/STATE COURT FORUM

## JUDICIAL COUNCIL ADMINISTRATIVE OFFICE OF THE COURTS

JUDICIAL COURT OPERATIONS  
SERVICES DIVISION  
CENTER FOR FAMILIES,  
CHILDREN & THE COURTS  
455 Golden Gate Avenue  
San Francisco, California 94102

### Tribal/State Programs Staff:

Vida Castaneda, Court  
Services Analyst,  
[vida.castaneda@jud.ca.gov](mailto:vida.castaneda@jud.ca.gov) or  
415-865-7874

Ann Gilmour, Attorney,  
[ann.gilmour@jud.ca.gov](mailto:ann.gilmour@jud.ca.gov) or  
415-865-4207

Angelica Souza, Administrative  
Coordinator,  
[angelica.souza@jud.ca.gov](mailto:angelica.souza@jud.ca.gov) or  
415-865-7417

Jenny Walter, Supervising  
Attorney,  
[jennifer.walter@jud.ca.gov](mailto:jennifer.walter@jud.ca.gov) or  
415-865-7687

Tribal/State Programs Link:  
[http://www.courts.ca.gov/progr  
ams-tribal.htm](http://www.courts.ca.gov/progr<br/>ams-tribal.htm)

### VAWA 2013 Webinar

National Center for Justice Planning and the Tribal Policy Institute are holding a webinar on the implementation of the tribal provisions of the VAWA 2013 on April 5, 2013, from 1:30 – 3:30 EST. (See link: <http://www.ncjp.org/content/implementation-expanded-jurisdiction-provisions-recently-reauthorized-violence-against-women>)

### Cross-Court Exchanges

The forum is hosting a series of gatherings that we are calling cross-court educational exchanges. The focus of these exchanges is to discuss and problem-solve together local justice systems' concerns relating to domestic violence, sexual assault, stalking, teen dating violence and/or elder abuse. The judges are inviting tribal leadership and local county and tribal professionals who work in the fields of child welfare, juvenile and criminal law, education, mental health, probation, social services, victim and other supportive services.

The first cross court exchange at Quechan was a huge success, thanks to Judge Claudette White and Judge Juan Ulloa. The next exchange is co-hosted by Judge Abinanti and Judge Wilson as follows:

Date: May 29, 2013

Time: 9:00 a.m. – 5:00 p.m.

Where: Klamath Office Administration, 190 Klamath Blvd - Klamath, CA 95548

Thanks to funding from CalEMA, the AOC is able to pay for associated travel and lodging costs for up to four tribal and state court judges who wish to participate in these exchanges. If you are interested in participating, please contact Jenny Walter, at [jennifer.walter@jud.ca.gov](mailto:jennifer.walter@jud.ca.gov) or 415-865-7687.

### Case Management Practices for Tribal Probation Personnel

The American Probation & Parole Association, in partnership with the Center for Strength-Based Strategies and The Vera Institute of Justice is holding a free training for tribal probation on June 11-13, 2013 in Rapid City, SD. Scholarships are available to assist with travel & lodging expenses. For questions, please contact Lisa Ginter via telephone at 859-244-8193 or via email at [lginter@csg.org](mailto:lginter@csg.org).

These programs are supported with funds from the Office on Violence Against Women, U.S. Department of Justice that are administered through the California Emergency Management Agency (CalEMA), the U.S. Department of Health and Human Services, Court Improvement Program, and the California Department of Social Services.

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## GRANT OPPORTUNITIES:

### **OVW FY 2013 Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program Deadline: March 25, 2013**

The United States Department of Justice, Office on Violence Against Women (OVW) ([www.ovw.usdoj.gov](http://www.ovw.usdoj.gov)) is pleased to announce that it is seeking applications for the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program). This program furthers the Department of Justice's mission by encouraging State, local, and Tribal governments and State, local, and Tribal courts to treat sexual assault, domestic violence, dating violence, and stalking as serious violations of criminal law requiring the coordinated involvement of the entire criminal justice system. For more information see link: <http://www.ovw.usdoj.gov/docs/2013-arrest-solicitation.pdf>

### **Applied Research and Development in Forensic Science for Criminal Justice Purposes**

**Deadline: April 1, 2013**

The [U.S. Department of Justice](#) (DOJ), [Office of Justice Programs](#) (OJP), [National Institute of Justice](#) (NIJ) is pleased to announce that it is seeking applications for funding to support applied research and development projects that will increase knowledge and understanding necessary to guide forensic science policy and practice or result in the production of useful materials, devices, systems, or methods that have the potential for forensic application. This program furthers the Department's mission by sponsoring research to provide objective, independent, evidence-based knowledge and tools to meet the challenges of crime and criminal justice, particularly at the State and local levels. For more information, see link: <https://ncjrs.gov/pdffiles1/nij/sl001059.pdf>

### **Basic Scientific Research to Support Forensic Science for Criminal Justice Purposes**

**Deadline: April 1, 2013**

The [U.S. Department of Justice](#) (DOJ), [Office of Justice Programs](#) (OJP), [National Institute of Justice](#) (NIJ) is pleased to announce that it is seeking applications for funding to support basic scientific research that underlies the multidisciplinary field of forensic science. This program furthers the Department's mission by sponsoring research to provide objective, independent, evidence-based knowledge and tools to meet the challenges of crime and criminal justice, particularly at State and local levels. For more information, see link: <https://ncjrs.gov/pdffiles1/nij/sl001058.pdf>

### **BJA FY 13 Tribal Civil and Criminal Legal Assistance Grants, Training, and Technical Assistance**

**Deadline: April 4, 2013**

Authorized by the Indian Tribal Justice Technical and Legal Assistance Act of 2000, P.L. 106-559, Title I, BJA's Tribal Civil and Criminal Legal Assistance (TCCLA) grants enhance tribal justice systems and improve access to those systems. Targeted to non-profit organizations as defined in the eligibility on the title page, the grants serve to strengthen and improve the representation of indigent respondents in civil causes of action and indigent defendants in criminal cases under the

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jurisdiction of Indian tribes. These services are also targeted to tribes that meet the federal poverty guidelines. Finally, a third category funds training and technical assistance (TTA) that supports the development and enhancement of tribal justice systems. For more information see link:

<https://www.bja.gov/Funding/13TCCLAsol.pdf>

## **Community-Based Violence Prevention Demonstration Program**

**Deadline: April 22, 2013**

Applicants are limited to states (including territories) and units of local government (including federally recognized tribal governments, as determined by the Secretary of the Interior). Applicants must demonstrate a significant crime and violence problem affecting youth (specifically, high levels of aggravated assaults, shootings, and killings over an extended period of time) to be eligible for this program. OJJDP welcomes joint applications from two or more eligible applicants; however, one applicant must be clearly indicated as the primary applicant (for correspondence, award, and management purposes) and the others indicated as coapplicants. OJJDP expects applicants to have strong support within local government. Specifically, successful applicants will be those cities, counties, states, or tribal governments that have signed letters of support from, at a minimum, their mayor or chief executive officer, chief of police, and the local school superintendent and have proven how the implementation of their comprehensive, community-based violence prevention strategy fits into their jurisdiction's youth violence prevention plan. OJJDP may visit designated sites prior to making a final determination of award. For more information see link:

<http://www.ojjdp.gov/grants/solicitations/FY2013/CBVP.pdf>