


<p>California Department of Justice DIVISION OF LAW ENFORCEMENT John D. Marsh, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p>Subject: Enforcement of Tribal Court Protection Orders</p>	<p>No. 2022-DLE-11</p>	<p>Contact for information: John D. Marsh, Chief Division of Law Enforcement (916) 210-6300</p>
	<p>Date: 9/30/2022</p>	

TO: ALL CALIFORNIA DISTRICT ATTORNEYS, CHIEFS OF POLICE, SHERIFFS, AND STATE LAW ENFORCEMENT AGENCIES

This bulletin is designed to ensure that state and local law enforcement officials across California have the necessary information to enforce and prosecute violations of tribal court protection orders. Enforcement of protection orders across jurisdictional lines is a critical component of protecting victims of violence. This is a supplement to Information Bulletin No. DLE-2016-03.

TRIBAL COURT PROTECTION ORDERS ARE TO BE GIVEN "FULL FAITH AND CREDIT"

Both California and federal law under the Violence Against Women Act (VAWA) require all law enforcement officers of this state to give full faith and credit to tribal court protection orders, sometimes called "protective orders," issued by a [federally-recognized tribe](#), and enforce those orders accordingly. ([Cal. Fam. Code, §§ 6400-6409 \[Uniform Interstate Enforcement of Domestic Violence Protective Orders Act\]](#); [18 U.S.C. § 2265 \[Violence Against Women Act\]](#).)

Full faith and credit requires that valid civil and criminal protective orders must be enforced by local and state law enforcement to protect victims wherever a violation of an order occurs, regardless of where the order was issued. ([18 U.S.C. § 2265](#).) VAWA defines "protection order" as "any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person[.]" ([18 U.S.C. § 2266\(5\)\(A\)](#).) VAWA also encompasses protections contained in support, child custody, and visitation orders and protective directives in other court orders. ([18 U.S.C. § 2266\(5\)\(B\)](#).) Emergency, ex parte, temporary, and final orders are also subject to full faith and credit under VAWA. ([18 U.S.C. 2265\(b\)\(2\)](#).)

FORMAT OF A TRIBAL COURT PROTECTIVE ORDER MAY VARY FROM TRIBE TO TRIBE

California is home to one of the largest populations of American Indian/Alaska Native people in the nation. There are [574 federally recognized tribes](#) in the United States. Of those 574 tribes, California is home to 109 federally recognized tribes. There is no standard format for tribal court protection orders. Therefore, California law enforcement may come into contact with hundreds of different formats of tribal court protection orders: they may differ from an order issued by a California court in name, verbiage, content, layout, and duration.

TRIBAL PROTECTIVE ORDERS DO NOT NEED TO BE LOCATED IN NCIC OR CLETS DATABASES

Law enforcement officers must enforce valid tribal court protection orders, whether or not they are registered or filed. However, it is important to note that nationwide, many tribal courts enter their protective orders directly into the National Crime Information Center (NCIC), and not in the California Restraining and Protection Orders System (CARPOS) or the California Law Enforcement Telecommunications System (CLETS).

- Therefore, California law enforcement officers **SHALL NOT** require any of the following when being asked to enforce a tribal court protective order:
 - Presentation of a certified copy of the tribal court protection order. The order may be inscribed on any tangible medium or stored in an electronic or other medium if it is retrievable in perceivable form. ([Cal. Fam. Code, § 6403, subd. \(a\).](#))
 - Registration or filing of the protection order with the state. ([Cal. Fam. Code, § 6403, subd. \(d\).](#))
 - Verification in any statewide database (for example, the California Law Enforcement Telecommunications System (CLETS) or the California Restraining and Protective Order System (CARPOS)). ([Cal. Fam. Code § 6403, subd. \(d\).](#))

DETERMINING PROBABLE CAUSE FOR ENFORCEMENT

- **When a tribal court protective order is presented to a law enforcement officer:**

Presentation of a protection order that identifies both: (1) the protected individual and the individual against whom enforcement is sought and, (2) on its face, appears to be currently in effect, constitutes probable cause to believe that a valid tribal court protection order exists. ([Cal. Fam. Code, § 6403, subd. \(a\).](#)) Once there is probable cause to believe that a valid tribal court protection order exists, a law enforcement officer must enforce the order as if it were an order issued by a California court. ([Cal. Fam. Code, § 6403, subd. \(a\)](#); [18 U.S.C. § 2265\(a\).](#))
- **When a tribal court protective order is NOT presented to a law enforcement officer:**

If a protection order is not presented, a law enforcement officer may consider other information to determine if there is probable cause to believe that a valid order exists. ([Cal. Fam. Code, § 6403, subd. \(b\).](#))

IF AN ORDER HAS NOT BEEN SERVED, LAW ENFORCEMENT SHALL SERVE THE ORDER

If a law enforcement officer determines that an otherwise valid tribal court protection order cannot be enforced because the respondent (i.e., the individual against whom enforcement is sought) has not been notified or served with the order, the officer shall inform him or her of the order, make a reasonable effort to serve the order, and allow him or her a reasonable opportunity to comply with the order before enforcing it. Verbal notice of the order is sufficient. ([Cal. Fam. Code, § 6403, subd. \(c\).](#)) Service of the order should then be noted in the law enforcement officer's report.

THERE IS NO CIVIL LIABILITY IF LAW ENFORCEMENT ACTS IN GOOD FAITH

There shall be no civil liability on the part of, and no cause of action for false arrest or false imprisonment against, a peace officer who makes an arrest pursuant to a protective or restraining order that is regular upon its face, if the peace officer, in making the arrest, acts in good faith and

has reasonable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order. ([Cal. Fam. Code, § 6383, subd. \(h\)\(1\).](#))

CONTACT INFORMATION

The California Department of Justice takes great pride in assisting local law enforcement agencies in enforcing criminal and civil laws and protections. Should your agency require technical assistance, please contact the Department's Division of Law Enforcement at (916) 210-6300 or the Department's Office of Native American Affairs at (916) 210-6474.