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ATTORNEY GENERAL'S OFFICE
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The Supreme Court
State of Washington



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April 9, 2018

Mr. Bob Ferguson
Attorney General
P.O. Box 40100
Olympia, WA 98504-0100

Re: Request for Attorney General Opinion regarding Enforcement of Tribal Court
Protection Orders

Dear Attorney General Ferguson:

On behalf of the Tribal State Court Consortium (TSCC), a subcommittee of the Gender & Justice Commission, Justice Barbara Madsen and I are requesting a formal AG opinion on Washington State's obligation to enforce out of state and tribal court protection orders.

While we believe the federal requirements have been clear for some time now, a reminder of our obligations and responsibilities are needed from time to time and are usually welcomed. The intention of TSCC is to distribute the AG opinion to law enforcement and county clerks, in particular, as a reminder that "registration" in state court is not required.

I have spoken with Jeff Even with regard to this and attach a .pdf of California's attorney general's opinion, as well as links to Alaska, Indiana, North Dakota, Kansas, and Florida attorney general opinions:

Alaska

<http://law.alaska.gov/press/releases/2015/073015-TribalPO.html>

http://law.alaska.gov/pdf/opinions/opinions_2015/15-005_AN2013102606.pdf

Mr. Bob Ferguson
Attorney General
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Indiana

<https://www.in.gov/judiciary/iocs/files/pubs-trial-court-protection-orders.pdf>

North Dakota

<https://attorneygeneral.nd.gov/sites/ag/files/Legal-Opinions/9510.pdf>

Kansas

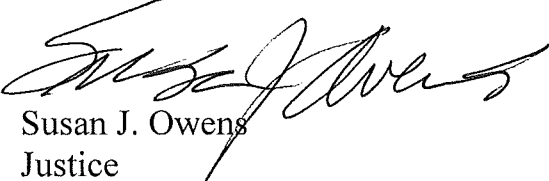
<http://ksag.washburnlaw.edu/opinions/1995/1995-107.htm>

Florida

<http://myfloridalegal.com/ago.nsf/Opinions/14C57B087CEFE217852563A30046176B>


Thank you for considering this request. The Gender & Justice Commission thinks it will be most helpful. If you need any additional information from me, please feel free to contact me.

Sincerely,



Susan J. Owens
Justice

cc: Jeff Even
J. Barbara Madsen

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Larry J. Wallace, Director</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i> Enforcement of tribal court protection orders</p>	<p><i>No.</i> DLE-2016-03</p> <p><i>Date:</i> 11/29/16</p>	<p><i>Contact for information:</i> Larry J. Wallace, Director Division of Law Enforcement (916) 319-8200</p>

TO: All State and Local Law Enforcement Agencies

Both California and federal law require all law enforcement officers of this state to enforce tribal court protection orders, sometimes called "protective orders." (Cal. Fam. Code, §§ 6400-6409 [Uniform Interstate Enforcement of Domestic Violence Protective Orders Act]; 18 U.S.C. § 2265 [Violence Against Women Act; federal law requiring "full faith and credit" be given to tribal court protection orders].)

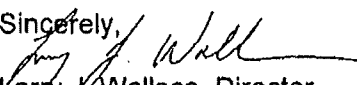
Presentation of a protection order that identifies both the protected individual and the individual against whom enforcement is sought and, on its face, appears to be currently in effect constitutes probable cause to believe that a valid tribal court protection order exists. (Cal. Fam. Code, § 6403, 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).) 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).)

Law enforcement officers must enforce valid tribal court protection orders and shall not require any of the following:

- (1) 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).)
- (2) Registration or filing of the protection order with the state. (Cal. Fam. Code, § 6403, subd. (d).)
- (3) 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).)

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).)

Sincerely,

Larry J. Wallace, Director
Division of Law Enforcement

For KAMALA D. HARRIS
Attorney General