

AGENDA

ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM

Friday, October 24, 2008 - 10:00 a.m. - 3:00 p.m.

Sandra Day O'Connor United States Courthouse
401 West Washington, Phoenix, AZ

- I. **Registration** - (Beginning at 9:45 A.M.)
- II. **Call to Order** – Hon. Patrick Irvine, Arizona Court of Appeals
Greeting – Richard Weare, Clerk of Court/District Court Executive
- III. **Approval of Minutes**
- IV. **Ongoing Matters**
 - A. **Tribal Court Involuntary Commitment Process**
Involuntary commitment Forum notes
Superior court recognition protocol statewide implementation
 - B. **Enforcement of Orders of Protection**
Non-Indian violation of order on reservation
- V. **New Matters**
 - A. **U.S. Attorney - Indian Country Report**
Explanation and comments regarding report
 - B. **U.S. Marshals Service – Duties**
Court/Judicial Security
- LUNCH** - Provided through Clerk of U.S. District Court.
- C. **Arizona Domestic Violence Training Summit**
Court Forum as co-sponsor
 - D. **Open Forum**
Any other matters of concern
- VI. **Adjournment** – Next Meeting – Friday January 23, 2009 Pascua Yaqui, Tucson.

III. Approval of Minutes

ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM
State Courts Building, Room 345A/B
1501 West Washington
Phoenix, Arizona 85007

Minutes of the
April 25, 2008 Meeting

Court Forum Members Present:

Hon. Patrick Irvine
Arizona Court of Appeals, Division One

Hon. William Canby, Jr.
U.S. Court of Appeals, Ninth Circuit

Sue Hall
Clerk of Superior Court, Apache County

Mary O'Grady
Arizona Office of the Attorney General

Kathlene M. Rosier (called in)
Public Member

Hon. Ted Armbruster (by phone)
Fountain Hills Municipal Court

Hon. Victor J. Clyde
Chinle Justice Court

Pat Henson
Public Member

Hon. William O'Neil
Pinal County Superior Court

Hon. Claudette White
Quechan Tribal Court

Administrative Office of the Courts (AOC) Staff Present:

David Withey

Brenda Lee Dominguez

Participants/Visitors Present:

Neil Flores
Paul Julien
Charleen Green
Katherine Plumb

Kerry Passey
Edd Welsh
Hallie Bongar White

II. Call to Order

Judge Irvine called the meeting to order at 10:30 a.m. Judge Irvine welcomed the attendees and invited everyone to introduce themselves.

III. Approval of Minutes

Judge Irvine deferred the vote on the February Minutes for the next meeting since they had not been distributed.

IV. Ongoing Matters

A. Tribal Court Involuntary Commitment Process

Katherine Plumb, Assistant Attorney General, provided background and a status report on this topic. Persons determined by tribal courts to require involuntarily commitment need immediate attention. The only secure facilities available on the reservations are jails. Tribal members have the right to receive treatment in a less restrictive treatment facility than the state hospital. Judge White stated that tribal members must be afforded due process and that the lack of resources to address the mental health issues is a problem on reservations.

Tribal courts typically commit directly to the state hospital thus bypassing local treatment options and the Regional Behavioral Health Authority (RBHA) process that is used with involuntary commitment initiated in the superior court. Where direct commitment to the state hospital is appropriate, specific judicial findings are needed. Otherwise the tribal court order should not specify state hospital evaluation and treatment so other alternatives may be used. There is a need increase the awareness of tribal judges of local and regional mental health treatment alternatives. RBHAs need to become aware of the tribal jurisdiction and role in involuntary commitment and of tribal culture in developing treatment options.

The goal is to create an instructional manual covering the process and protocol of the filing and enforcement of tribal court involuntary commitment orders. Meetings are ongoing between staff of DHS, the State Hospital, RBHAs, the Attorney General and the Intertribal Council of Arizona. Roll-out of training for staff of all entities involved at the local level is planned for an August timeframe.

B. Revocation of State Probation of Reservation Resident

Kathlene M. Rosier maintains a document on the ASU College of Law, Indian Legal Programs website entitled "The Arizona Tribal Courts" (copy provided in packet). This document contains extradition information for tribes that responded. This process is at least one option where custody is needed by state authorities for the purposes of revoking probation. Other procedures may be available as well. Kathlene referred to another website www.versuslaw.com, which has a good collection of tribal court opinions and laws.

C. Service of Process Rule

Motion was made by Pat Henson and seconded by Judge Victor Clyde to approve filing a petition with the Arizona Supreme Court to add Rule 4.1(p) by Judge Irvin and David Withey.

V. New Matters

A. Role of Southwest Center for Law and Policy

Hallie Bongar White provided information to the Forum regarding The Southwest Center for Law and Policy, a non-profit primarily federal grant funded organization that she directs. The Center provides free legal training and technical assistance through conferences and articles to tribal communities and to organizations and agencies serving native people, with emphasis on domestic violence (VAWA) and victim issues (Adam Walsh Act). Their website is www.swclap.org. Ms. Bongar White provided another website – www.tlpi.org, which lists tribal codes and on-site training with courts. Ms. Bongar White offered to work with the Forum, including providing resources for joint projects.

B. Enforcement of Tribal Court Orders

David Withey requested information/comments on enforcement of tribal court orders of protection violated by non-Indians. Judge White stated that the enforcement of tribal court orders is a problem with conflicting orders from different courts and with the lack of law enforcement understanding of these orders. Judge Clyde stated that these orders of protection are enforced only if they are first filed in state court. Ms. Bongar White stated that her organization had worked with the Fort McDowell Yavapai Nation to have the Maricopa County Sheriff Department serve as the holder of record for tribal court orders so law enforcement will access them in the same manner as state court orders. Judge O'Neil explained that law enforcement agencies generally lack understanding of the applicability and enforceability of tribal orders of protection. He also noted that Order of Protection data entry from state courts has a reported 35% error rate.

Forum members discussed the option of citing a non-Indian who violates a tribal court order of protection into a state court for enforcement and punishment through an order to show cause re contempt or prosecution for the state misdemeanor of interfering with judicial proceedings by disobeying the lawful order of a court.

C. Judicial Education

Paul Julien provided information to the Forum regarding the Arizona Judicial Conference held in June each year. Tribal judges are welcome to attend. The Education Services Division welcomes a diverse group of participants in all programs to enhance the education experience. Paul also described the Arizona Judicial College and the training materials available for replay on computers. We may be able to make a list of these materials available on the Forum website. It was suggested that it may be useful to have a tribal judge as a member of the judicial college board.

David Withey suggested that that Forum sponsor a seminar on the interfaces between state, tribal, and federal court jurisdiction at a future judicial conference. Pat Henson volunteered to work in the training event.

D. Role of Indian Legal Services Program

Judge Irvine deferred discussion of this topic to a future meeting.

VI. Adjournment

The next meeting will be held at the Sandra Day O'Connor U.S. Courthouse in Phoenix - the meeting date to be determined at a later date. Judge Irvine adjourned the meeting at 2:22 p.m.

IV. Ongoing Matters

A. Tribal Court Involuntary Commitment Process

Tribal Forum on Involuntary Commitment

August 28, 2008

Draft Meeting Notes

The purpose of the meeting was to identify areas for improvement in order to provide a continuum of care through tribal, Indian Health Service and the state behavioral health systems resulting from tribal court commitment to the Arizona State Hospital.

1. John Lewis, Executive Director, ITCA, Inc. and Margaret Vick, PLC, ITCA, Inc. provided the background and overview of the agenda topics. They informed the meeting participants that A.R.S 12-136 Indian tribal courts; involuntary commitment orders; recognition was signed into law in 1992. The rules of procedure were adopted in 1994 by the Arizona Supreme Court. The law provides that the Arizona judicial system shall recognize tribal court orders for an involuntary placement at a suitable treatment facility for an individual with a serious mental disorder that renders the patient a danger to self, a danger to others, persistently or acutely disabled and/or gravely disabled. The rules describe the procedures in which the tribal court order shall be recognized and enforced by a county superior court. Both the law and the rules raise several legal, funding and service coordination issues between the state and the tribal governments because no on-reservation facilities exist for the inpatient treatment of serious mental illnesses. A.R.S. 36-541 was adopted into law more recently and states that a patient who is ordered by a court to undergo treatment, if not hospitalized in the state hospital at the time of the order, shall undergo treatment for at least twenty-five days in a local mental health treatment agency geographically convenient for the patient before being hospitalized in the state hospital. This provision adds another facet to navigating the state behavioral health system.

To review the structural differences between the State and IHS/Tribal behavioral health systems and connecting points when inpatient services are identified as a needed resource for American Indian patients the following was described;

State RBHA/TRBHA System	(Intersecting Points)	IHS/Tribal System
	<u>A.R.S. 12-136 Indian tribal courts;</u> <u>involuntary commitment orders;</u> <u>recognition</u>	
Arizona State Court System		Tribal Court Systems
Arizona State Hospital		No on-reservation inpatient residential treatment facility for adults or youth
Short Term Psychiatric Residential Treatment Facilities (Mandatory Local Treatment- A.R.S. 36-541)		No on-reservation Short term Psychiatric Residential Treatment Facilities
RBHA/TRBHA provider networks		IHS/638 tribal behavioral health providers
AHCCCS Health Plans	Medicare/Medicaid/SCHIP Collection Authority	IHS/AHCCCS Fee-for-Service

2. Introductions and program services.

a. Brief program descriptions

i. Tribal/IHS behavioral health programs

The facilitator asked the tribal program participants to introduce themselves and briefly describe their programs and speak to how their program or if their program has been involved in the involuntary commitment process. This tribal input is listed below.

Yavapai Prescott-ASH is not the total solution. In the County through the Title 36 process 9 of 10 admitted are discharged because they get stabilized.

Ak-Chin-tribal behavioral health program has begun to work with RBHA in Pinal County. Members also get services at Gila River Health Care Corporation.

Tribal Prosecutors Association-Interest is in tribal mental health code development with respect to involuntary commitment. Each tribe varies and this issue requires a multi-faceted approach.

Hopi-The tribal ordinance is not well developed. Some individuals in need of inpatient end up at the tribal jail. This is not appropriate. AHCCCS eligible individuals need to get access to Aspen Hills.

Salt River-Day treatment program has been in existence since 1986 and we have an intensive outpatient substance abuse program. Recently patients have been seen with psychosis due to meth. Program has dealt with involuntary commitment for a number of years. The tribe has a mental health code. Tribe conducts individuals psych evaluations in the involuntary commitment process. Another concern is the unique issues of youth as they turn 18 years of age and the need to identify transitional services.

White Mountain-SMI adult and children's program, alcohol and substance abuse services briefly described. Recent transition to TRBHA status and working with involuntary commitment process.

ITCA-A.R.S. 12-136 has helped tribes. Some of the processes have changed since the law was passed. Tribes have identified their own issues and problems and unique solutions.

ACOIH-Goal is to improve tribal health care systems and seek policy changes. One issue of concern is the need to reimburse tribes and IHS for providing behavioral health services in tribal jails.

Chinle-(Social Services) Five social workers are cross trained to work with IHS psychiatrists and tribal court prosecutors on the involuntary commitment process. We are on call from 7 am-10 pm seven days a week. Referrals to the TRBHA take place. We are working to improve and standardize protocols with the courts (state and tribal). There is a new prosecutor at the tribal district court. Timeframes to complete access to needed services is still a problem.

Navajo Nation (NN) BHS-Protocol agreed to with Coconino County Superior Court is not currently in effect. There is a new judge and meetings need to happen between the Nation and the court staff. We are also discussing setting up protocols with Apache and Navajo County Superior Courts.

AHCCCS-The AHCCCS/ADHS/DES Tribal Consultation meeting that occurred last year highlights some of the issues being addressed in this session. These overarching issues include: 1. planning & resources, 2. program technical support and 3. integration of systems.

NN TRBHA-TRBHA focus is the coordination of care from the least restrictive to the most restrictive. We do not have problems providing the continuum of care. Our difficulty is accessing the state hospital for patients that need this highest intensity level of care. Problems with involuntary commitment process include psychiatrists are not willing to testify in tribal court, patients not getting beyond 10 day stabilization at Flagstaff and getting discharged. Most are revolving back into crises situations. Administration and coordination of behavioral health services in rural and frontier areas requires an intensive effort. We rely on psychiatric services from IHS especially for medication case management. NN BHS and TRBHA worked on a 6 year plan to address alcohol and substance abuse and developing a 72 bed substance abuse treatment center. TRBHA also uses subvention funds.

Tohono O'Odham-Tribe is seeking education on the involuntary commitment process. The need for behavioral health services is increasing. Some individual patients will benefit if services can be provided at the state hospital.

Fort Mojave-Tribal behavioral health program is open 5 days per week. Tribe has not used A.R.S. 12-136 to place individuals at the Arizona State Hospital. Voluntary placement is normally provided through Bullhead City or Las Vegas.

NN District Court (?)-The district serves tribal members in a rural area along the Arizona, Utah border. Arizona is way ahead of Utah. Utah has only one Native American bed at the state hospital for off reservation American Indians. There are no beds for on-reservation American Indians. New Mexico's process creates anxiety. We are in need of short-term treatment. Also reinstituting the Coconino court protocol for involuntary commitment is needed.

White Mountain-TRBHA clinical director works with the in house attorney on these cases. We've only been successful in getting three patients into ASH. Extended stays in the tribal jail are common. The difficulty we've had in finding out of home placement is one of the drivers in the tribe's decision to become its own TRBHA.

San Carlos-Tribe has intensive outpatient services, including crises services at the jail, schools etc. CARF accreditation was achieved. No TRBHA.

Hualapai-Disparate situation exists. We have no placements at ASH using Title 36 or 12-136. Only one commitment worked to his knowledge.

NN IHS-There is no inpatient treatment services on the reservation. Each geographic area has different services and funding levels. Focus needs to be on services for the population, not administration. Telemedicine services need to be reimbursed.

i. AzDBHS

*Lydia Hubbard-Pourier, Contracts Administrator
Arizona Division of Behavioral Health Services (AzDBHS)*

Structure and responsibility of ADHS described: AHCCCS behavioral health "carve out" is a subcontract with ADHS/BHS to deliver Title XIX and Title XXI covered services. ADHS BHS manages behavioral health service system through contracts and agreements with 4 RBHAs, 3 TRBHAs with Gila River, Pascua Yaqui and White Mountain and 2 intergovernmental agreements with Navajo and the Colorado River Indian Tribes. Arizona State Hospital services and funding streams identified.

(See power point slide presentation).

iii. Arizona State Hospital

*Marcelle D. Leet, MD
Chief Medical Officer
Arizona State Hospital*

A presentation on the history of the Arizona State Hospital, the decline in the census since the 1940's and a focus on partnering for timely and effective clinically appropriate treatment was provided. The average length of stay is currently 210 days. Programs at the hospital include civil adult restoration, the adolescent treatment and the forensic adult program. The treatment models that are incorporated at the hospital include the recovery model and other evidence based treatments. Discharge planning, accessing community based treatment and services and attention to human rights are major focuses.

(See power point slide presentation)

3. Involuntary commitment process: tribal to state court
a. Basic requirements

Margaret Vick, PLC, ITCA

Provisions of A.R.S 12-136 were discussed and the Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders were reviewed in detail.

(See statute and rules).

- b. Current issues
- i. Types of involuntary treatment other than ASH
 - ii. Mandatory local treatment
 - iii. Medical services
 - iv. Guardianships

Catherine Dodd Plumb, Esq.
Assistant Attorney General
Arizona Attorney General's Office

ARS 12-136 was designed to address the jurisdictional issues of the tribal court and the state superior court systems. Most of the tribes do not have TRBHA status so some of the services provided by RBHA/TRBHA providers are not available to tribal members who reside on reservation. The community residential treatment system is a managed care system. Individuals are enrolled in AHCCCS health plans in order to reimburse providers for services. State law now requires 'mandatory local treatment' when a person is enrolled and determined to be SMI. Participants were informed that RBHAs/TRBHAs may assist patients in the enrollment process in order to obtain psychiatric services at an off reservation facility. There are other options in addition to ASH.

The need to address 'guardianship' was also addressed so that the patient can receive medical services while obtaining mental health treatment services at ASH. Two options were discussed. Option #1 would be that the tribal court files a separate guardianship order for state recognition. Option #2 would be to include the guardianship in the involuntary commitment order.

(See power point slide presentation)

4. Continuum of care

- a. ASH admission process
- b. ASH discharge planning
- c. Other issues:
 - i. Case management
 - ii. Transportation

LuAnne T. Kelly MSN, ANP. MBA
Chief Clinical Operations Officer
Arizona State Hospital

The topics covered in this presentation included an emphasis on the importance of obtaining referral information on the patient. The application process helps the staff identify why local treatment has or has not met the patient's needs, how the treatment services at ASH will benefit the patient, how the patient needs will be met once the patient is returned to the community and identify the expected length of stay. ASH recommends that the application and the admissions process begin at the same time as the tribal court order. The AzSH admissions manager and social worker will contact the referring tribe to provide support to complete the application and retrieve all necessary documentation. The hospital staff is also willing to contact the designated RBHA in order to enroll the individual in the managed care system. RBHA/TRBHA involvement is considered a necessary component of the continuum of care.

(See power point slide presentation)

5. Behavioral health-Medicaid payment systems

- a. AHCCCS federal waiver and carve out for behavioral health
 - i. AHCCCS medical care
- b. T/RBHA system
 - i. Enrollment options
 - ii. State funding through RBHAs for treatment at ASH

*Alexandra O'Hannon,
Behavioral Health Manager
Arizona Health Care Cost Containment System (AHCCCS)*

*Carol Chicharello, Tribal Relations Liaison
Office of Intergovernmental Relations, Office of the Director
AHCCCS*

The behavioral health 'carve out' system was described. It refers to the AHCCCS contract with the ADHS/BHS to provide behavioral health services to AHCCCS members through RBHAs and TRBHAs. Under the contract ADHS/BHS is required to provide data on utilization of services and comply with quality improvement requirements. American Indian members enrolled in an AHCCCS Health Plan they may still obtain direct services at IHS and tribal facilities and these facilities and programs recoup reimbursement at the 100% pass through federal rate. This amount is negotiated annually by CMS and the U.S. DHS. American Indians are required to enroll in a health plan in order to obtain services at ASH, but upon return to the tribal community they may re-enroll in IHS/AHCCCS at any time during the year.

(See power point slide presentation)

6. System improvements discussion

*Alida Montiel, Health Systems Analyst, ITCA, Inc, Co-Moderator
Lydia Hubbard-Pourier, AzDBHS, Co-Moderator*

1st Page

Recommendations for System Improvements

- Inventory of tribal Involuntary Commitment ordinances or tribal codes.
- Request training assistance from AG (State) (NN) Health Commitment Code TA for NN training.

- ↓ TCO and SCO time lapse.
- How RTC can be developed for NAS (instead of AZSH admission).
- Training/TA to tribes regarding what resources telemed option for TX is avail - (contact info etc.).
- Tracking system for admission issues & complaints.
- Training needed regarding TCOs (content & request etc.) with BHS and Tribal prosecutors.

2nd Page

- Continued ed/training regarding this process - also follow-up on today's meeting.
- Also focus on transitional coordination for NA child → adult needed.
- Continued work on barriers identification.
- DBHS - work on DBHS provider manual - clear guidance.
- 1pg contact inform sheet for Involuntary Commitment.
- Tribal staff tours of AZSH – call AZSH if questions.

3rd Page

- Barriers Committee with solution mandate should be established.
- * CO Evaluation step - look into how can be done!!
- Template for COT - to be developed and distributed.
- Info specific to NAs for include AZSH website (keep updated) with links also QM process to money specific and contact info.
- Fort McDowell - TA request regarding COT & COE.
- AZSH Health -E- Connection steps
- RBHA - stop re-evaluation steps - contact Catherine - disseminate this information.
- Look at developing local tx facilities on reservations and provide some \$ research.

4th Page

- Research by all to look at issue of building facilities on reservations 100% federal pass thru vs state match.
- Need to share info with all tribes.
- Salt River work with state (AZSH) often cyclical has tribal ordinance.
- Need for holding facility while being evaluation.
- Tribes need staff esp. MD/psychiatry.
- Co-occurring disorders excluded on basis of Substance Abuse.
- System change – regarding Tribal → SMI evaluation needed.
- ↓ Time at both tribal & state for COT.

5th page

- Acute care/holding facility RTC needed on reservations.
- Model tribal codes and format for committee.
- Training needed for prosecutors, courts & RBHAs.
- 1-800-# * FAQ page on website.
- Centralized info.
- Availability of beds in Level I & II.
- Funds client linked not RBHA linked.
- Reservation jails-waiver from dropping from AHCCCS.

6th Page

- Training/guidance manual.

- \$ to Peach Springs clients (look into complaint process).
- Tribal control over a facility.
- Quick reference sheet > on training materials.
- Team to look at other states regarding AZ model (do presentations to National Health/BH Conferences).
- Financial Resources in Training manual.
- Credentialed providers needed.
 - Extension of grandfather clause or re-instatement.
- NN-Keep in mind traditional healers in FFS/reimbursement.

7th Page

- * → Develop Inter Tribal Corporation to address access issues.

Overall Result

NAs lack of access to BHS

Disparity!!!

7. Wrap-up and next steps to be identified

- Convene Involuntary Commitment Work Group to discuss and provide oversight on follow-up actions.
- Revise policy documents as needed and distribute to tribal/IHS and state behavioral health programs.
- Obtain tribal mental health codes and distribute as requested.

ITCA am
9.4.08

Protocol for the Processing and Enforcement of Tribal Court Involuntary Commitment Orders in the Superior Court of Arizona

Problem Statement: Persons determined by tribal courts in Arizona to be in need of involuntarily commitment require immediate custodial care. The only secure facilities available on Arizona reservations are jails, which have very limited bed space and treatment services. Local secure mental health treatment facilities located outside of Indian country may lack understanding of tribal court jurisdiction and are sometimes reluctant to comply with tribal court involuntary commitment orders. The Arizona State Hospital can only accept involuntary commitment by the superior court.

Arizona has established a mechanism for the filing and enforcement of tribal court involuntary commitment orders in A.R.S. 12-136 and through the Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders. Involuntary commitments under tribal law will only be ordered in those cases where it is shown that the person who is the subject of the order is a threat to the health or safety of himself or others. Therefore, any delay in filing and enforcing the tribal court order is an obstacle to timely treatment in these emergent cases. The process for filing and enforcing tribal court involuntary commitment orders in the Arizona courts involves three points at which processing time is involved (A) filing the tribal court order and other required paperwork in superior court, which may be time consuming due to the need to travel significant distances to the superior court from reservation locations; (B) the five (5) day response period required by Rule 3 of the state rules; and (C) the time necessary for the certification required by Rule 5(a) or the enforcement order required by Rule 5(b).

This protocol is designed to streamline and decrease the time required to file and enforce tribal court involuntary commitment orders.

A. Decreasing the time it takes to file tribal court involuntary commitment order.

The proponent of the tribal court commitment order will:

1. Make an effort to contact directly by telephone the Office of the Clerk of the Superior Court of the State of Arizona in a county in which the reservation is located to inform a clerk of the entry of the tribal court involuntary commitment order and the need to file it in the superior court.
2. File the tribal court order and supporting documents, including the telephone numbers of the parties, if available, by sending a facsimile transmission to the Superior Court, to the attention of the Clerk of the Superior Court.
3. Submit the original tribal court documents by express delivery (United States Postal Service Express Mail, FedEx, or a similar form of express service designed to obtain next day delivery) to the Clerk of Court.

4. Send a copy of a tribal court order that indicates specifically that the patient is in need of admittance to the Arizona State Hospital, by facsimile transmission to the Admissions/Legal Department, Arizona State Hospital. The fax number is (602) 220-6198. This step is not required if the commitment order is to a facility other than the Arizona State Hospital.

The Clerk of the Superior Court will:

1. Immediately upon receipt file stamp and file the tribal court order.
2. Immediately return a copy of the filed and stamped tribal court order by facsimile transmission to the proponent of the tribal court commitment order.

B. Decreasing the wait for the 5-day response period.

1. The judge of the tribal court should determine whether response to superior court enforcement of the tribal court involuntary commitment order is waived by the subject of the commitment order and incorporate this waiver in the tribal court findings and order.
2. The proponent of the tribal court commitment order will contact the Attorney General's office directly by telephone to inform the Attorney General's representative of the entry of the tribal court order, the facts supporting the entry of the order, and the need for expedited response by the Attorney General.
3. The proponent of the tribal court commitment order will send a copy of the tribal court order and supporting documents and an unsigned waiver of the 5-day response period (see attachment) by facsimile transmission to:

Attorney General's Office
Education and Health Section
Attention: Assistant Attorney General representing Arizona State Hospital or

Division of Behavioral Health Services
Catherine Plumb or Robert Sorce
FAX # 602-364-0700

Indicate on the fax form "URGENT: Response Requested Within 24 Hours of Receipt." The cover sheet will contain the name of the individual and contact information where the state's waiver should be sent by facsimile and certified U.S. Mail.

4. As soon as practicable, but by no later than 24 hours after receipt of the tribal court commitment order, the Assistant Attorney General will review the tribal court order and either file a waiver of the five-day response period or file a

response and send the same by facsimile and mail to the fax number and address designated in the original facsimile.

C. Expediting the enforcement decision by the Superior Court.

1. The Clerk of the Superior Court will provide the tribal court order and supporting documents to the judge for review by the next workday following filing of the tribal court commitment order.
2. Upon receipt of the Attorney General waiver or response, the proponent of the tribal court commitment order will contact the assigned judge's judicial assistant by telephone to schedule review of the tribal court order on the same day the matter is received in the judge's chambers if the judge is available, if all paperwork is in order, and if the matter is not contested or at the earliest opportunity.
3. The Superior Court judge will schedule a telephonic hearing involving the tribal judge and parties as needed to clarify any issues with the paperwork presented.

IV. Ongoing Matters
B. Enforcement of Orders of Protection



Effective: August 12, 2006

United States Code Annotated Currentness

Title 18. Crimes and Criminal Procedure (Refs & Annos)

Part I. Crimes (Refs & Annos)

Chapter 110a. Domestic Violence and Stalking (Refs & Annos)

→ § 2265. Full faith and credit given to protection orders

(a) **Full faith and credit.**--Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory [FN1] as if it were the order of the enforcing State or tribe.

(b) **Protection order.**--A protection order issued by a State, tribal, or territorial court is consistent with this subsection if--

(1) such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and

(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

(c) **Cross or counter petition.**--A protection order issued by a State, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if--

(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

(d) **Notification and registration.**--

(1) **Notification.**--A State, Indian tribe, or territory according full faith and credit to an order by a court of another State, Indian tribe, or territory shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State, tribal, or territorial jurisdiction unless requested to do so by the party protected under such order.

(2) **No prior registration or filing as prerequisite for enforcement.**--Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State, tribal, or territorial jurisdiction.

(3) Limits on Internet publication of registration information.--A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction [FN2] in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.

(e) Tribal court jurisdiction.--For purposes of this section, a tribal court shall have full civil jurisdiction to enforce protection orders, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe.

CREDIT(S)

(Added Pub.L. 103-322, Title IV, § 40221(a), Sept. 13, 1994, 108 Stat. 1930, and amended Pub.L. 106-386, Div. B, Title I, § 1101(b)(4), Oct. 28, 2000, 114 Stat. 1493; Pub.L. 109-162, Title I, § 106(a) to (c), Jan. 5, 2006, 119 Stat. 2981, 2982; Pub.L. 109-271, § 2(n), Aug. 12, 2006, 120 Stat. 754.)

[FN1] So in original. Probably should not be capitalized.

[FN2] So in original.

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1994 Acts. House Report Nos. 103-324 and 103-489, and House Conference Report No. 103-711, see 1994 U.S. Code Cong. and Adm. News, p. 1801.

2000 Acts. House Report No. 106-939, see 2000 U.S. Code Cong. and Adm. News, p. 1380.

2006 Acts. House Report No. 109-233, see 2005 U.S. Code Cong. and Adm. News, p. 1636.

Amendments

2006 Amendments. Subsec. (a). Pub.L. 109-162, § 106(a)(1), struck out “or Indian tribe” in four places and inserted “, Indian tribe, or territory”.

Pub.L. 109-162, § 106(b), struck out “and enforced as if it were” and inserted “and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were”.

Subsec. (b). Pub.L. 109-162, § 106(a)(2), struck out “State or tribal” in the matter preceding par. (1) and inserted “State, tribal, or territorial”.

Subsec. (b)(1). Pub.L. 109-162, § 106(a)(1), struck out “or Indian tribe” and inserted “, Indian tribe, or territory”.

Subsec. (b)(2). Pub.L. 109-162, § 106(a)(2), struck out “State or tribal” and inserted “State, tribal or territorial”.

13-3602. Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

M. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, shall be made by fax or shall be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by fax, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the order or any modified order was issued shall forward to the sheriff of the county in which the court is located a copy of the order of protection and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the sheriff shall register the order. Registration of an order means that a copy of the order of protection and a copy of the affidavit or acceptance of service have been received by the sheriff's office. The sheriff shall maintain a central repository for orders of protection so that the existence and validity of the orders can be easily verified. The effectiveness of an order does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

N. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an order that is issued in any jurisdiction in this state pursuant to this section, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this section shall be referred to an appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated by a municipal or justice court unless a complaint has been filed or other legal process has been requested by the prosecuting agency. The provisions for release under section 13-3883, subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made pursuant to this section. For the purposes of this section, any court in this state has jurisdiction to enforce a valid order of protection that is issued in this state and that has been violated in any jurisdiction in this state.

* * * * *

P. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court. Notwithstanding any other law and unless prohibited by an order of the superior court, a municipal court or justice court may hold a hearing on all matters relating to its ex parte order of protection if the hearing was requested before receiving written notice of the pending superior court action. No order of protection shall be invalid or determined to be

ineffective merely because it was issued by a lower court at a time when an action for maternity or paternity, annulment, legal separation or dissolution of marriage was pending in a higher court. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order that is entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fee may be charged to either party for filing an appeal. For the purposes of this subsection, "pending" means, with respect to an action for annulment, legal separation or dissolution of marriage or for maternity or paternity, either that:

1. An action has been commenced but a final judgment, decree or order has not been entered.
2. A post-decree proceeding has been commenced but a judgment, decree or order finally determining the proceeding has not been entered.

Q. A peace officer who makes an arrest pursuant to this section or section 13-3601 is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

* * * * *

S. A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection:

1. A protection order includes any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person. A protection order includes temporary and final orders other than support or child custody orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a pendente lite order in another proceeding. The civil order shall be issued in response to a complaint, petition or motion that was filed by or on behalf of a person seeking protection.
2. A protection order is valid if the issuing court had jurisdiction over the parties and the matter under the laws of the issuing state, a United States territory or an Indian tribe and the person against whom the order was issued had reasonable notice and an opportunity to be heard. If the order is issued ex parte, the notice and opportunity to be heard shall be provided within the time required by the laws of the issuing state, a United States territory or an Indian tribe and within a reasonable time after the order was issued.
3. A mutual protection order that is issued against both the party who filed a petition or a complaint or otherwise filed a written pleading for protection against abuse and the person against whom the filing was made is not entitled to full faith and credit if either:
 - (a) The person against whom an initial order was sought has not filed a cross or counter petition or other written pleading seeking a protection order.
 - (b) The issuing court failed to make specific findings supporting the entitlement of both parties to be granted a protection order.
4. A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

13-2810. Interfering with judicial proceedings; classification

A. A person commits interfering with judicial proceedings if such person knowingly:

1. Engages in disorderly, disrespectful or insolent behavior during the session of a court which directly tends to interrupt its proceedings or impairs the respect due to its authority; or
2. Disobeys or resists the lawful order, process or other mandate of a court; or
3. Refuses to be sworn or affirmed as a witness in any court proceeding; or
4. Publishes a false or grossly inaccurate report of a court proceeding; or
5. Refuses to serve as a juror unless exempted by law; or
6. Fails inexcusably to attend a trial at which he has been chosen to serve as a juror.

B. Interfering with judicial proceedings is a class 1 misdemeanor.

C

Court of Appeals of Washington, Division 3.
STATE of Washington, Appellant,
v.
Richard Charles ESQUIVEL, Respondent.
No. 23938-1-III.

March 30, 2006.

Background: Defendant, who was charged with violating tribal court restraining order, moved to dismiss charges on ground that order did not contain warning that violation could be punishable as crime. The Superior Court, Okanogan County, Christopher E. Culp, J. Pro Tem, granted motion. State appealed.

Holdings: The Court of Appeals, Thompson, J. Pro Tem, held that:

- (1) statute requiring restraining orders to contain warning of criminal penalty did not apply to order issued by **tribal** court;
- (2) **tribal** court order was entitled to **full faith** and credit; and
- (3) **enforcement** of order did not violate due process.

Reversed.

West Headnotes

[1] Breach of the Peace 62 ↪ 20

62 Breach of the Peace

62k15 Security or Order to Keep Peace or **Protect** Family

62k20 k. Application and Proceedings Thereon. Most Cited Cases
(Formerly 209k32(7))

Statute requiring restraining orders to contain warning that violation might result in criminal penalty did not apply to foreign orders, such as those issued by **tribal** court. West's RCWA 26.50.035(1)(c).

[2] Judgment 228 ↪ 832.5

228 Judgment

228XVII Foreign Judgments

228k832.5 k. Judgments of **Tribal** Courts.

Most Cited Cases

(Formerly 228k831, 209k32(11))

Under federal Violence Against Women Act and state Foreign **Protection Order Full Faith** and Credit Act, **tribal** court restraining order against man was entitled to **full faith** and credit in **state court**; **tribal** court had jurisdiction over man and complainant, and order stated that man appeared pro se and that order was served on him. U.S.C.A. Const. Art. 4, § 1; 18 U.S.C.A. § 2265(b); West's RCWA 26.52.005.

[3] Constitutional Law 92 ↪ 3978

92 Constitutional Law

92XXVII Due Process

92XXVII(E) Civil Actions and Proceedings

92k3973 Process or Other Notice

92k3978 k. Proceedings Within Action or Lawsuit, Notice Of. Most Cited Cases
(Formerly 92k251.6)

Where the issuing court is required to place specific notice in court orders, a due process violation may occur when the notice is not given. U.S.C.A. Const. Amend. 14.

[4] Breach of the Peace 62 ↪ 15.1

62 Breach of the Peace

62k15 Security or Order to Keep Peace or **Protect** Family

62k15.1 k. In General. Most Cited Cases
(Formerly 209k36)

Statute providing that certain acts committed in violation of valid restraining **order** or foreign **protective order** were crimes was limited to acts specified in statute, and thus man subject to **tribal** court restraining order could be prosecuted under Foreign **Protection Order Full Faith** and Credit Act for nonspecified acts, i.e., telephoning complainant and leaving messages at prohibited place, without specific notice that violation of order was crime. West's RCWA 10.31.100(2)(b), 26.50.035(1)(c), 26.50.110(1), 26.52.070(1).

[5] Constitutional Law 92 ↪ 4557

92 Constitutional Law

92XXVII Due Process

92XXVII(H) Criminal Law

92XXVII(H)4 Proceedings and Trial

92k4557 k. Course and Conduct of Proceedings in General. Most Cited Cases (Formerly 92k257)

Indians 209 ↪ 300

209 Indians

209VII Offenses and Prosecutions

209VII(C) Procedure and Punishment

209k300 k. In General. Most Cited Cases

(Formerly 209k38(1))

Prosecuting man for violation of tribal court restraining order did not violate due process, even though order did not contain warning that violation might result in criminal penalty as required by statute; notice statute was not applicable to foreign order, order was issued by foreign entity with jurisdiction over matter, and man was afforded opportunity to be heard at tribal court hearing. U.S.C.A. Const. Art. 4, § 1; U.S.C.A. Const.Amend. 14; 18 U.S.C.A. § 2265(b); West's RCWA 26.52.005.

[6] Constitutional Law 92 ↪ 4503

92 Constitutional Law

92XXVII Due Process

92XXVII(H) Criminal Law

92XXVII(H)2 Nature and Elements of Crime

92k4502 Creation and Definition of Offense

92k4503 k. In General. Most Cited

Cases

(Formerly 92k258(1))

Due process requires that criminal statutes be worded to give fair warning of the type of conduct they purport to criminalize. U.S.C.A. Const.Amend. 14.

[7] Criminal Law 110 ↪ 26

110 Criminal Law

110I Nature and Elements of Crime

110k26 k. Criminal Act or Omission. Most Cited Cases

Criminal Law 110 ↪ 313

110 Criminal Law

110XVII Evidence

110XVII(B) Presumptions and Inferences

110k305 Presumptions

110k313 k. Knowledge of Law. Most Cited Cases

People are presumed to know the law and are responsible for their voluntary acts and deeds.

[8] Criminal Law 110 ↪ 32

110 Criminal Law

110II Defenses in General

110k32 k. Ignorance or Mistake of Law. Most Cited Cases

While ignorance of the law is no defense, an exception is made in circumstances where the court fails to give the statutory notice and actively misleads a defendant as to the law.

[9] Constitutional Law 92 ↪ 4008

92 Constitutional Law

92XXVII Due Process

92XXVII(E) Civil Actions and Proceedings

92k4007 Judgment or Other Determination

92k4008 k. In General. Most Cited Cases

(Formerly 92k251)

Due process requirements generally apply to the proper wording of statutes, not court orders. U.S.C.A. Const.Amend. 14.

****752** Karl F. Sloan, Okanogan County Prosecuting Attorney, Okanogan, Pamela B. Loginsky, Washington Association of Prosecuting Attorneys, Olympia, for Appellants. Dennis W. Morgan, Attorney at Law, Ritzville, for Respondents.

THOMPSON, J.^{FN*}

^{FN*} Judge Philip J. Thompson is serving as judge pro tempore of the Court of Appeals pursuant to RCW 2.06.150.

318** ¶ 1 Lisa Orr obtained a series of restraining orders against Richard Esquivel in the Tribal Court of the Confederated Tribes *753** of Colville Reservation (tribal court). None of these orders

contained a warning that the violation of the order could be punishable as a crime. In August 2004, Mr. Esquivel was charged in superior court with six felony counts for violating the tribal order. Mr. Esquivel moved to dismiss the charges, arguing that the tribal restraining order did not contain the warning required under RCW 26.50.035(1)(c). The trial court agreed and dismissed the charges. The State appeals, contending the tribal order should have been afforded full faith and credit. We agree, and reverse.

FACTS

¶ 2 Richard Esquivel and Lisa Orr have two minor children. Mr. Esquivel was charged with assaulting Ms. Orr in July 2003. Later, Ms. Orr filed an action in tribal court to establish a parenting plan for the two children.

¶ 3 During the pendency of the action, several orders were entered placing restrictions on Mr. Esquivel's conduct. On November 24, 2003, the tribal court entered a permanent*319 parenting plan. The parenting plan contains a warning that the violation of the residential provisions of the parenting plan with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense under tribal law.

¶ 4 That same day, the tribal court also entered its "Order Regarding Motions, Judgment, Restraining Order, [a]nd Parenting Plan." Clerk's Papers (CP) at 15. This order contains the following provisions:

2. Respondent, Richard Esquivel, shall not contact Petitioner, Lisa Orr, or Rheanna Marchand, at any time or location or by any method, including third-party contact. Respondent, Richard Esquivel, is further restrained from contacting the work place of Petitioner, Lisa Orr, or Ms. Orr's residence by any means, at any time, whether in person or through a third party. As specific and agreed-to exceptions to this Restraining Order, Respondent, Richard Esquivel, may contact Petitioner, Lisa Orr, in the event of an emergency involving the children during their visitations with Respondent or in the event of an emergency involving the transportation of the children for visitation;

3. The above and foregoing Restraining Order shall be in effect for a period of ten (10) years, expiring

on November 19, 2013.

CP at 16.

¶ 5 The tribal order states that Mr. Esquivel appeared pro se and indicates that a copy of the order was served on him. The tribal order contains no warning that the violation of the restraining order may be punishable as a crime under tribal law, Washington law or any other penal code.

¶ 6 The following December, an order was entered that modified the provisions of the November 26 restraining order. This order allowed for telephonic contact between 4:30 P.M. and 8:00 P.M. each Wednesday, and during the two hours prior to, and during, scheduled visits provided this contact is limited to discussions about visitation. This order also does not include any warning that the violation of the order may be punishable as a crime.

*320 ¶ 7 One year later, the State filed charges alleging six violations of the tribal court's restraining order. The charges arose from conduct by Mr. Esquivel that took place on or about August 28, 2004 and August 29, 2004.

¶ 8 Mr. Esquivel moved to dismiss the charges. He maintained that the tribal court's failure to include the warning in its order violated due process notice requirements rendering the tribal restraining order invalid. The court granted the motion to dismiss. The State appeals.

ANALYSIS

¶ 9 RCW 26.50.035(1)(c) provides that an order for protection must contain notice of the criminal penalties arising from a violation of the order, and must include the following language: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating**754 the order's provisions. Only the court can change the order upon written application." RCW 26.50.035(1)(c).

¶ 10 Here the trial court dismissed the charges against Mr. Esquivel because the tribal restraining order did

not contain the warning required under RCW 26.50.035(1)(c). Specifically, the court concluded that: "Defendant had inadequate notice of possible sanctions for violation of the foreign restraining order, as required by due process and the provisions of RCW 26.50.035(1)(c)." CP at 91. In contrast, the State contends that RCW 26.50.035(1)(c) does not apply to foreign orders and that Washington must enforce the tribal order under full faith and credit principles.

Does RCW 26.50.035(1)(c) apply to foreign orders?

[1] ¶ 11 Several statutes address the problem of domestic violence in Washington by authorizing courts to issue orders that preclude the aggressor from contacting the victim. See RCW 10.99.040; RCW 26.50.020; RCW 26.09.060, .300; RCW 26.26.130, .138. The contents of each *321 order are determined by the underlying statutory authority. Warnings required in orders issued under one chapter are not required in orders issued under a different statute. For example, the warnings required under RCW 26.50.035(1)(c), are not required in orders issued under RCW 10.99.040 or RCW 26.09.060. See *State v. Turner*, 118 Wash.App. 135, 141, 74 P.3d 1215 (2003), review denied, 151 Wash.2d 1015, 88 P.3d 965 (2004).

¶ 12 The controversy centers on the applicability of the warnings required under RCW 26.50.035(1)(c). These warnings are not required in the tribal order because this order was not issued under chapter 26.50 RCW. Instead, the tribal order was issued under Colville Tribal Code section 5-5-35.^{FN1} There is no warning requirement for protection orders issued under this provision.

FN1. Mr. Esquivel argues that a warning is mandated under Colville Tribal Code section 5-5-50(d). But this provision applies only on written orders releasing a person arrested or charged with a crime involving domestic violence. Colville Tribal Code section 5-5-50(d).

Should the tribal order be given full faith and credit?

[2] ¶ 13 Under Article IV, Section 1 of the United States Constitution, full faith and credit must be given in each state to the public acts, records, and judgments of every other state. Article VI, Section 1, the

Full Faith and Credit Clause, has been applied to Indian tribes. *In re Adoption of Buehl*, 87 Wash.2d 649, 663, 555 P.2d 1334 (1976).

¶ 14 Full faith and credit is also extended specifically to tribal protection orders in 18 U.S.C. § 2265. This provision is part of the Violence Against Women Act which provides for nation wide enforcement of protection orders in state and tribal courts. RCW 26.52.005. Accordingly, 18 U.S.C. § 2265 states that: "Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe (the enforcing State or Indian tribe) and enforced as if it were the order of the enforcing State or Indian tribe." (Emphasis added.)

* ¶ 15 To be consistent with subsection (b), a protection order must be issued by a court that has jurisdiction over the parties and the matter under the law of the State or Indian tribe. 18 U.S.C. § 2265(b)(1). Also, the person against whom the order is sought must have been given reasonable notice and opportunity to be heard sufficient to protect due process rights. 18 U.S.C. § 2265(b)(2).

¶ 16 The restraining order issued by the tribal court is consistent with 18 U.S.C. § 2265(b). Mr. Esquivel does not challenge the jurisdiction of the tribal court. And the face of the order indicates that he appeared pro se when the order was issued and that he was served a copy of the order. Consequently, the tribal order restraining order must be accorded full faith and credit pursuant to 18 U.S.C. § 2265.

¶ 17 In *People v. Hadley*, 172 Misc.2d 697, 699, 658 N.Y.S.2d 814 (1997), the foreign order and the criminal complaint did not **755 indicate that Mr. Hadley was afforded due process before the decree was issued. *Hadley* concluded that for full faith and credit to apply, the party seeking enforcement of the foreign order must show that the party against whom the order was issued was given a reasonable opportunity to be heard in conformity with the law of the issuing state and consistent with due process. *Id.* at 702, 658 N.Y.S.2d 814. In *Hadley*, this meant that the prosecution had to demonstrate that the defendant had been informed orally or in writing of the contents of the order and its prohibitions. *Id.* at 702, 658 N.Y.S.2d 814. The defendant's motion to dismiss was

granted but the prosecution was granted leave to submit the required information. *Id.* at 706, 658 N.Y.S.2d 814.^{FN2}

^{FN2}. *Hadley* involved an attempt to enforce a New Jersey order in New York. The order in question did contain a warning that any violation could result in criminal contempt, or a criminal violation and possible jail. *Id.* at 699, 658 N.Y.S.2d 814.

¶ 18 Here, the tribal order states that Mr. Esquivel appeared pro se and indicates that the order was served on him. Under the **Full Faith and Credit Clause** and 18 U.S.C. § 2265, the restraining order against Mr. Esquivel should be accorded **full faith** and credit by the Washington courts.

*323 ¶ 19 Washington State adopted the **Foreign Protection Order Full Faith and Credit Act**, chapter 26.52 RCW, to assist the federal Violence Against Women Act in the **enforcement** of civil and criminal **protection orders in state and tribal courts**. RCW 26.52.005. The intent of the legislation is to remove barriers faced by persons entitled to **protection** under a foreign **protection order** and to ensure that violations of those orders will be criminally prosecuted in Washington. *Id.*

¶ 20 The Washington Foreign **Protection Order Full Faith and Credit Act** defines the term "foreign **protection order**" to include orders from **tribal courts**. RCW 26.52.010(3). Under the Washington act and the federal Violence Against Women Act, a foreign **protection order** is valid if it is issued by a court with personal and subject matter jurisdiction that provided the person under restraint with reasonable notice and opportunity to be heard. RCW 26.52.020; 18 U.S.C. § 2265. Also, Washington grants a presumption of validity when the order appears authentic on its face. RCW 26.52.020. Significantly, Mr. Esquivel does not challenge the jurisdiction of the tribal court, nor does he assert he was denied notice and the opportunity to be heard.

[3] ¶ 21 Mr. Esquivel contends that the absence of a warning in the tribal order provides the basis for the dismissal of his criminal charges, but he cannot point to any provisions requiring the inclusion of the warnings in a tribal court order. In effect, Mr. Esquivel maintains that the tribal order is invalid because it

lacks a warning required by the enforcing court, not the issuing court. Where the issuing court is required to place specific notice on court orders, a due process violation may occur when the notice is not given. *State v. Wilson*, 117 Wash.App. 1, 11-12, 75 P.3d 573 (2003). However, there is no requirement in the federal or state full faith and credit legislation that foreign protection orders must contain certain warnings. And any attempt by the states to impose their requirements would violate the principles of full faith and credit.

*324 Does the prosecution based on RCW 26.50.110(1) require notice under RCW 26.50.035(1)(c)?

[4] ¶ 22 Mr. Esquivel contends that when the prosecution of a foreign order occurs, the Washington Foreign Protection Order Full Faith and Credit Act requires compliance with chapter 26.50 RCW. Mr. Esquivel maintains that RCW 26.50.110 requires the foreign order to specify that a particular violation is a crime before the violation can be prosecuted. In contrast, the State argues that the plain language of RCW 26.50.110(1) requires notice only for certain conduct.

¶ 23 Statutory interpretation is a question of law reviewed de novo. The meaning of a statute is inherently a question of law and our review is de novo. *King County v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 142 Wash.2d 543, 555, 14 P.3d 133 (2000). The goal of statutory interpretation is to ascertain and give effect to the legislature's ****756** intent and purpose. *Am. Cont'l Ins. Co. v. Steen*, 151 Wash.2d 512, 518, 91 P.3d 864 (2004). This is done by considering the statute as a whole, giving effect to all that the legislature has said, and by using related statutes to help identify the legislative intent embodied in the provision in question. *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wash.2d 1, 11, 43 P.3d 4 (2002). Under the rule of lenity, we construe a statute strictly against the State and in favor of the accused when two constructions are permissible. *State v. Gore*, 101 Wash.2d 481, 485-86, 681 P.2d 227 (1984).

¶ 24 The Washington Foreign Protection Order Full Faith and Credit Act requires that:

Whenever a foreign protection order is granted to a

person entitled to protection *and the person under restraint knows of the foreign protection order, a violation of a provision prohibiting the person under restraint from contacting or communicating with another person, or of a provision excluding the person under restraint from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly within a specified distance of a location, or a violation of any provision for which *325 the foreign order specifically indicates that a violation will be a crime, is punishable under RCW 26.50.110.*

RCW 26.52.070(1) (emphasis added).

¶ 25 The language in this statute is not ambiguous. The person under restraint pursuant to a foreign protection order and who knows of the order is subject to punishment under RCW 26.50.110 for the violation of any of the listed acts or the violation of any provision designated as a crime in the foreign order.

¶ 26 RCW 26.50.110(1) contains similar language:

Whenever an order is granted under this chapter,... *or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of the restraint provisions, or of a provision excluding the person from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or of a provision of a foreign protection order specifically indicating that a violation will be a crime, for which an arrest is required under RCW 10.31.100(2)(a) or (b), is a gross misdemeanor.*

(Emphasis added.)

¶ 27 This provision is more complicated because of the inclusion of orders issued under other chapters. Examining the plain terms of the statute, this provision, like RCW 26.52.070, provides that the person under restraint pursuant to a foreign order, and who knows of the order, is subject to punishment for a violation of any acts listed in RCW 26.50.110(1), or the violation of any provision designated as a crime in the foreign order.

¶ 28 Mr. Esquivel argues that this statute should be read to limit the person's liability to the violation of those provisions of the foreign order specifically indicating that the violation of the provision is a crime. But this reading is contrary to the terms of the statute.

*326 ¶ 29 RCW 26.50.110(1) refers to RCW 10.31.100(2)(b). This provision states, in part:

A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

...

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the **757 foreign protection order specifically indicates that a violation will be a crime.

(Emphasis added.) This provision is not ambiguous and is similar to RCW 26.52.070 because only foreign protection orders are discussed.

¶ 30 Mr. Esquivel contends that RCW 26.50.110(1) states that a foreign protection order must indicate that a violation of the order will be a crime. Given the clarity of the related statutes, RCW 26.50.110(1) is capable of only one reading. Specifically, RCW 26.50.110(1) requires notice in the foreign order only when the proscribed conduct is something other than contacting the victim, going to a specific location, or going within a specified distance of a location.

¶ 31 Mr. Esquivel was charged with phoning Lisa Orr, and leaving messages at a prohibited place, her home. Consequently, no notice was required under RCW 26.50.110(1).

Due process/equal protection requirements.

[5] ¶ 32 Mr. Esquivel contends that the question here cannot be resolved under full faith and credit principles. Instead, *327 he argues that he is being denied his due process rights and his right to receive the same notice as other Washington residents charged with the violation of a protection order. Also, Mr. Esquivel asserts that the criminal proceeding is a separate proceeding where the full faith and credit principles do not apply, and the State must proceed under chapter 26.50 RCW.

¶ 33 Essentially, Mr. Esquivel argues that the only notice that complies with due process is the notice described in RCW 26.50.035(1)(c). But the application of full faith and credit principles requires a different inquiry with regard to due process. A foreign protection order is valid only if it is issued by a court with personal and subject matter jurisdiction that provided the person under restraint with reasonable notice and opportunity to be heard. RCW 26.52.020; 18 U.S.C. § 2265. Mr. Esquivel contends the absence of warnings violates due process. Undoubtedly, the absence of required statutory warnings by the issuing state may violate due process. Wilson, 117 Wash.App. at 12, 75 P.3d 573. But a different due process inquiry takes place when the enforcing state's the statutory warnings are not required by the issuing state.

[6][7][8][9] ¶ 34 Due process requires that criminal statutes be worded to give fair warning of the type of conduct they purport to criminalize. State v. Baldwin, 150 Wash.2d 448, 458, 78 P.3d 1005 (2003). People are presumed to know the law and are responsible for their voluntary acts and deeds. State v. Sweeney, 125 Wash.App. 77, 83-84, 104 P.3d 46 (2005). While ignorance of the law is no defense, an exception is made in circumstances where the court fails to give the statutory notice and actively misleads a defendant as to the law. State v. Leavitt, 107 Wash.App. 361, 371-72, 27 P.3d 622 (2001). Due process requirements generally apply to the proper wording of statutes, not court orders. Wilson, 117 Wash.App. at 11-12, 75 P.3d 573. Applicable regulations or statutes may require specific notice on court orders. *Id.*

¶ 35 Relying on State v. Leavitt, 107 Wash.App. 361, 366-68, 27 P.3d 622 (2001), Mr. Esquivel contends

the failure to provide statutory notice *328 has due process implications. But Leavitt concluded that it would be a denial of due process to require Mr. Leavitt to wonder about additional restrictions to his right to possess firearms beyond his one-year probation where the sentencing court had failed to inform him that he had lost his right to possess firearms for an indefinite period. *Id.* at 372, 27 P.3d 622.

¶ 36 Here, the Washington statutory notice requirements did not apply to the tribal order. Moreover, applying federal and state full faith and credit statutes, Washington is required to give full faith and credit to this tribal order. There is no indication that the enforcement of this order violated Mr. Esquivel's due process rights. Unlike the defendant in Leavitt, Mr. Esquivel was aware of the tribal restraining order.

¶ 37 Several jurisdictions have considered whether lack of notice regarding the firearm prohibition on qualifying domestic violence orders violates due process. In **758 United States v. Kafka, 222 F.3d 1129, 1130 (9th Cir.2000), Mr. Kafka argued that 18 U.S.C. § 922(g)(8) violated due process by failing to require that persons restrained by state domestic violence orders receive notice and warning of the federal prohibition on possessing firearms. Kafka concluded that the issuance of the order should have alerted Mr. Kafka to the possibility of other limitations on his conduct and that Mr. Kafka's act of carrying a loaded pistol in his waistband was not wholly passive conduct. *Id.* at 1132-33. Other courts have also found no due process violations. See also United States v. Napier, 233 F.3d 394, 399 (6th Cir.2000); United States v. Reddick, 203 F.3d 767, 769-71 (10th Cir.2000); United States v. Meade, 175 F.3d 215, 225-26 (1st Cir.1999); United States v. Wilson, 159 F.3d 280, 288-89 (7th Cir.1998).

¶ 38 Here, due process does not require that foreign orders contain the warnings set forth in RCW 26.50.035(1)(c). Due process under full faith and credit principles requires an inquiry to determine whether the issuing court had jurisdiction and provided the person under restraint with reasonable notice and opportunity to be heard. *329 RCW 26.52.020; 18 U.S.C. § 2265. Several of the Washington enforcement statutes require that the person under restraint have knowledge of the order. See RCW 26.50.110(1); RCW

10.31.100(2)(b); RCW 26.52.070(1). Mr. Esquivel knew of the tribal order. Knowledge of the tribal order should have put Mr. Esquivel on notice that violation of the order might subject him to criminal liability. Mr. Esquivel fails to show a violation of his due process rights under the circumstances of this case.

¶ 39 Reversed.

KATO, C.J. and SCHULTHEIS, J., concur.
Wash.App. Div. 3, 2006.
State v. Esquivel
132 Wash.App. 316, 132 P.3d 751

END OF DOCUMENT

C

Effective: January 5, 2006

United States Code Annotated CurrentnessTitle 18. Crimes and Criminal Procedure (Refs & Annos)Part I. Crimes (Refs & Annos)Chapter 110A. Domestic Violence and Stalking (Refs & Annos)

→ § 2262. Interstate violation of protection order

(a) Offenses.--

(1) **Travel or conduct of offender.**--A person who travels in interstate or foreign commerce, or enters or leaves Indian country or within the special maritime and territorial jurisdiction of the United States, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct, shall be punished as provided in subsection (b).

(2) **Causing travel of victim.**--A person who causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, shall be punished as provided in subsection (b).

(b) Penalties.--A person who violates this section shall be fined under this title, imprisoned--

- (1) for life or any term of years, if death of the victim results;
- (2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the victim results;
- (3) for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;
- (4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and
- (5) for not more than 5 years, in any other case,

or both fined and imprisoned.

CREDIT(S)

V. Ongoing Matters
A. U.S. Attorney - Indian Country Report

V. Ongoing Matters
B. U.S. Marshals Service - Duties

V. Ongoing Matters
C. Arizona Domestic Violence Training Summit

EXECUTIVE SUMMARY

The Glendale, Arizona Police Department proposes to utilize STOP Violence Against Women Grant Program funding to offer an Arizona Domestic Violence Prevention Training Summit. A pair of large-scale training efforts will be developed to attract participants from a variety of disciplines including law enforcement officers, judges, other court personnel, prosecutors, victim advocates, treatment providers, probation officers and related community agencies. The first training event will be a satellite broadcast sponsored by the Education Services Division of the Arizona Supreme Court. During the broadcast of approximately four hours in length, viewers from 22 stations throughout Arizona will receive distance learning education on Arizona Rules of Protective Order Procedure, firearms restrictions of the Brady Handgun Violence Prevention Act, the Lautenberg Domestic Confiscation provision and other timely topics. The second training event will be a face-to-face multi-track training and education conference of a minimum one full day in length to be held at the Glendale Regional Public Safety Training Center. Conference training and education topics may include new Arizona protective order forms and procedures, specialized domestic violence courts, supervised probation for first-time offenders and other probation issues, stalking, strangulation, elder and vulnerable victims, dating violence, campus violence, sexual assault, police and prosecutor attitudes, Brady and Lautenberg law violations, prosecutions crossing state lines, domestic violence on tribal land, surviving domestic violence and full faith and credit of forms. A plenary session will open the conference featuring Sarah Buel, a Harvard Law School graduate, domestic violence survivor and one of the pre-eminent experts on domestic violence in the country. Partnerships will be forged to include the Glendale Police Department, Glendale City Court, Arizona Supreme Court, Arizona Coalition Against Domestic Violence, Maricopa County Adult Probation Department, Arizona Prosecuting Attorney's Advisory Council (others pending: tribal) with a Memorandum of Understanding representing all project participation requirements. Both events comprising the Arizona Domestic Violence Prevention Training Summit will be held in October 2009 to coincide with National Domestic Violence Awareness Month. This timetable accommodates ample planning and preparation for the extensive logistical considerations involved. It also insures the availabilities of all keynote speakers and stakeholders. The broadcast and all classes offered during the conference will be accredited for applicable professional training credits including COJET, CLE and APOST. The multiple partners of this proposal further envision the Arizona Domestic Violence Prevention Training Summit becoming an annual event if supported by successful outcome measures. Building on the success of this large-scale initial collaborative training effort, the conference has potential to attract speakers and participants nationwide in subsequent years. This effort addresses the serious need for comprehensive and collaborative system-wide education and networking among all disciplines working to eradicate domestic violence in our communities. It further addresses the Chief Justice's Strategic Agenda for Arizona's Courts by Protecting Children, Families and Communities. This premier regional training venue will provide high quality timely and relevant continuing education, while simultaneously offering tourist appeal, with the thriving Westgate sports and entertainment district in close proximity. Nominal conference registration fees will be required to offset event costs.

Goals and Objectives

According to the Arizona Coalition Against Domestic Violence, 125 domestic violence related deaths occurred during 2007 in Arizona. It is the goal of the partners involved in the Arizona Domestic Violence Training Summit to initiate collaborative multi-disciplinary education and training that will reduce the occurrence of domestic violence tragedies in our state. The project's objective will be to achieve this goal through offering approximately xx number of educational training classes during these two events that appeal to all agencies and disciplines working independently or in concert with other entities to combat domestic violence.

Best practices lead to best solutions in all sectors of enterprise, social service and government. And the most effective way to identify and implement best practices begins through comprehensive delivery of timely and consistent state-of-the-art information sharing. The Arizona Domestic Violence Training Summit accomplishes this objective by identifying the most current and pressing needs for domestic violence education and linking them to some of the most qualified facilitators in the state to educate participants. The Glendale Domestic Violence Task Force has helped identify these training needs through discussion and consideration among Court staff, prosecutors, treatment providers, police, victim advocates and non-profit service providers. However, there currently exists no common outlet for delivering en masse these critical and relevant areas for training needs in this highly specialized area of study in Arizona. Utilizing this pair of premier multidiscipline training delivery mechanisms captures the largest population possible of related workers with similar missions. These events offer the greatest hopes of providing common and consistent messages of best practice standards and models.

Specific quantified project outcomes need to be identified as realistically achievable to reach the project's goal to reduce domestic violence occurrences in Arizona. For purposes of this goal, the objective will involve measuring the project's success toward improving the knowledge, attitudes or skills among participants following their attendance at the training events. These outcomes require effective measurement tools to accurately assess and track progress toward meeting the objective. Therefore, adequate time will be included at the conclusion of each particular training class to allow students to complete a detailed survey aimed at measuring these changes. (Not sure we want to say this. I was thinking more along the lines of: each program will have situations presented to attendees to apply the recently learned information or techniques. This has proven to be an effective manner to teach adult learners.) Program evaluations will be created to capture, as best as possible, whether each participant agrees his/her knowledge, attitude or skill in an area of domestic violence study has improved to the following degrees: not at all, somewhat, greatly (work on this measurement piece). The data gleaned from these surveys will be compiled and calculated in a report format to gauge the success levels of improving participants' knowledge, attitudes and skills under each education topic following their attendance in the respective class. Please refer to Attachment #_ entitled _____. Following the conclusion of each training summit event, an additional event survey will be disseminated to measure whether the event in its

entirety, and with its cumulative educational impact, improved each participants' knowledge, attitude and skill on the same rating levels. This will be accomplished at both the satellite broadcast and the face-to-face training conference. Please refer to Attachment # __ entitled ____.

A second and longer-term objective of this project will be to initiate momentum toward building the training summits into ongoing annual training events. Offering quality domestic violence training over time insures the most effective collaborative efforts for substantial systems improvements through continued education. The results of the first summit will assist partners in developing future conference agendas. The project partners are helping to insure that Arizona stakeholders are making positive impact on an ongoing basis to educate all related agencies on best practices. Support for this annual objective can be measured and quantified within the program evaluation surveys. This will be accomplished by including a series of questions soliciting interest in support of continuing the training summits in 2010. (Refer to attachment) It is anticipated all data relative to measuring the success of training summit program objectives shall be compiled in report format by December 1, 2009.

Memorandum of Understanding between

The Administrative Office of the Courts and the Glendale Police Department

This agreement is entered into this 16th day of October, 2008, by and between the City of Glendale, a municipal corporation, hereinafter referred to as the "City" and the Arizona Supreme Court, Administrative Office of the Courts "AOC".

A. Shared Vision. The AOC and the City hereby commit to improve response to victims of domestic violence through collaborative, multi-disciplinary training which will be provided with support from STOP grant funding available through the Governor's Office for Children, Youth and Families. In order to carry out these commitments, The AOC and the City hereby agree:

B. Purpose. If awarded the grant, the AOC, the City, and other partners in the grant agree to work collaboratively to develop a pair of large-scale training efforts to attract participants from a variety of disciplines including law enforcement officers, judges, other court personnel, prosecutors, victim advocates, behavioral treatment providers, probation officers and related community agencies.

1. The first training event will be a satellite broadcast sponsored by the AOC.
2. The second training event will be a face-to-face multi-track training and education conference of a minimum one full day in length to be held at the Glendale Civic Center.

C. The AOC Responsibilities. The Administrative Office of the Courts Education Services Division and Court Services Division and Arizona State Supreme Court sponsored State, Tribal, and Federal Court Forum will provide in-kind contributions through staff time. It is expected that this contribution will reflect approximately 475 hours of time from the employees to be designated throughout the course of the project; this time will represent implementation through to the final reports. Additionally, the AOC will assist with recruiting faculty, development of the curriculum, preparation of program materials, recruiting judicial branch employees to participate in the training and broadcast, produce and direct the training and broadcast, and coordinate the evaluation of both programs.

D. Glendale Police Department Responsibilities. Glendale Police Department will provide in-kind contributions through personnel, as designated in the grant application, for curriculum development, instructional presentation, event planning, and grant administration. In addition, the City of Glendale Police Department will contribute as an in-kind the 20% discount for use of the City of Glendale Civic Center.

E. Term. The validity of this MOU shall be contingent upon award of a STOP grant for this project. This agreement shall terminate upon the termination of the grant.

F. Status of Relationship. This Agreement is not intended to, and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, or formal business association or organization of any kind between parties, and the rights and obligations of

the parties shall be only those expressly set for in this agreement. The parties agree that no person supplied by either party to accomplish the goal of this contract is an employee of the other party and no rights under City civil service, retirement, or personnel rules accrue to such person.

G. Entire Agreement. This Agreement comprises the entire agreement of the parties and supersedes any and all other agreements or understandings, oral and written, whether previous to the execution hereof or contemporaneous herewith. Any amendments or modifications to this Agreement shall be made only in writing and signed by the parties to this Agreement.

H. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

I. Non-Discrimination. Both parties agree to comply with all applicable provisions of state and federal laws and regulations, including the Americans with Disabilities Act and Executive Order 99-4, which is incorporated herein by reference, mandating non-discrimination and requiring that all persons, regardless of race, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunity.

J. Property Disposition. The parties do not anticipate having to dispose of any property upon partial or complete termination of this Agreement. However, to the extent that such disposition is necessary, property shall be returned to its original owner.

H. Liability. Each party (as "indemnitor") agrees to indemnify defend and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers."

I. **Immigration Compliance.** All parties agree to comply with all applicable federal immigration laws and regulations of the Governor's Executive Order 2005-30.

J. **Termination.** All property shall be returned to the owning party upon termination.

K. Any notice required to be given under this Agreement will be provided by mail to:

Mike Baumstark
Administrative Office of the Courts
1501 W. Washington Street
Phoenix, Az. 85007

Steven Conrad
Glendale Police Department
6835 N. 57th Drive
Glendale, Az. 85301

L. E-Verify. The AOC acknowledges that immigration laws require it to register and participate with the E-Verify program (employment verification program administered by the United States department of homeland security and the social security administration or any successor program) as AOC employs one or more employees in this state. The AOC warrants that it has registered with and participates with E-Verify and that prior to entry of this Agreement that proof was provided to the City of registration and participation. If the City later determines that the AOC is not compliant with E-Verify the City will notify by certified mail of the determination and of the AOC right to appeal the determination. Upon final determination of noncompliance the AOC shall repay all monies received under this Agreement to the City within 30 days of the final determination. The AOC compliance will be determined from the date of entry of this Agreement through 90 days from the date of final approval and reimbursement.

Signature

Date

Mike Baumstark
Deputy Director
Administrative Office of the Courts

Signature

Date

Steven Conrad
Chief of Police
Glendale Police Department