

PROTECTIVE ORDER PACKET

COURT OF INDIAN OFFENSES FOR THE SOUTHERN PLAINS REGION

Mailing Address:
P.O. Box 368
Anadarko, Oklahoma 73005

Phone: 405/247-8527 or 405/247-8508
Fax: 405/247-7240
Email: edwina.gutierrez@bia.gov

Physical Location:
Highway 281 North & Parker McKenzie Drive
Anadarko, Oklahoma
(located inside the Anadarko Agency)

The petition form in this packet is to be used when filing for an Protective Order. Please read the protective order information provided in this packet carefully before completing the form.

Should you need assistance in preparing the petition, you must consult with an attorney at your own expense or contact a Tribal Domestic Violence Program. This court does not have legal aid. The Court Clerks are prohibited by Ethical Code and Court Rules to provide legal advice and help parties prepare petitions. Different situations may require special procedures and the Court Clerks CANNOT advise you on how to proceed or what forms may be necessary in specific situations.

PACKET CONTAINS:

Protective Order Information

Petition for Protective Order

Apache Tribe of Oklahoma
Violence Free Living
Program Brochure



Website: <http://www.bia.gov/WhoWeAre/RegionalOffices/SouthernPlains/WeAre/ciospr/index.htm>



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**IN THE COURT OF INDIAN OFFENSES FOR THE SOUTHERN PLAINS REGION
ANADARKO, OKLAHOMA**

GENERAL COURT INFORMATION

IMPORTANT – PLEASE READ!

WHAT CIVIL CASES CAN BE HEARD IN THE COURT OF INDIAN OFFENSES (“CFR COURT”)?

The CFR Court can hear many different types of civil cases involving Indian or non-Indian arising in “Indian Country”, where tribal members are defendants. Cases involving Indian and/or non-Indian or non-tribal member are also permitted by consent of the defendant to the personal jurisdiction of the court. The civil matters heard in the court include Indian child welfare, adoption, guardianship, divorce, child support, custody, name change, protective order, small claims, probate of non-trust property, and marriage, in addition to other civil disputes. To begin a civil suit, a party, or the party’s attorney must pay the required filing fee and file the required petition. After that time the court may set the matter for hearing and trial, if required.

DO YOU NEED A LAWYER TO APPEAR IN THE CFR COURT?

No. It is advisable to get assistance of an attorney. Parties are encouraged to hire an attorney who is familiar with the laws and procedures with the CFR Court. The judges and court clerks cannot help parties present cases or act as advocates. Ethical codes do not permit court clerks, judges or other court personnel to assist parties in preparing filings. The Office of the Court Clerk does provide forms and instruction.

CAN ONE APPEAL A CFR COURT DECISION?

Yes. Parties have a right to appeal their cases to the Court of Indian Appeals, if they believe that the judge of the CFR Court has committed an error or for the relief, such as a writ of habeas corpus, as provided for in the court rules. A notice of appeal must be filed within 15 days after entry of judgment or an order issued by the CFR Court. Parties must submit a filing fee, insure that the records are transferred to the appeals court within the required time period after the record has been certified and file the necessary petition in error and briefs by the deadlines set forth in the court rules. Failure to abide by the deadlines may result in dismissal of the appeal. The decisions are made primarily by reviewing the written briefs and court record of the trial court. The Court of Indian Appeals consists of three appeal officers who review the action of the trial court to determine if the decision made should be upheld or overturned. Generally, a party is limited to discuss issues and evidence presented to the trial court, and cannot submit additional evidence or legal arguments on appeal. If a party wishes to expedite a decision, the party should demonstrate why the court should hear the matter in an expedited manner.

ASSISTANCE OF COURT CLERKS

Court Clerks can provide information or resources that can be helpful in the handling of your case. However, Court Clerks CANNOT provide legal advice, which limits the type of information that can be given. The following are guidelines established that the Court Clerks must follow. Your understanding of what information can be provided will assist you in effectively talking with the Court Clerks.

Court Clerks will check your court documents for completeness. They will check for signatures, addresses, phone numbers, etc. Court Clerks will insure that you submit the required documents (petition, summons, tribal verification, birth certificates, filing fees, etc.) for filing.

Court Clerks May:

- Encourage self-represented parties to consult with an attorney for legal advice.
- Explain general information on the court process and procedure.

- Provide court forms and written instructions.
- Provide docketed case information.
- Provide resource material.
- Provide a list of attorneys
- Give you information on a court case, unless it is restricted by law.
- Allow you to review your case file, under the supervision of the Court Clerk, and provide you with a copy (copying fees apply) anything from it, unless it is restricted by law, but you cannot remove the file from the Court Clerk's Office.

Court Clerks CANNOT do any of the following:

- Advise you whether you should file a case or whether you should take any particular action in a case.
- Advise you what forms may be necessary in specific situations.
- Recommend what you should do in a case.
- Conduct legal research for you.
- Provide legal advice.
- Help you prepare or type court documents.
- Tell you what a judge might do.
- Tell you what to say in court.
- Tell you what words to use in preparing your court documents.
- Talk to the judge for you.
- Let you talk to the judge in private.
- Explain judicial decisions.
- Advise you as how the court rules and procedures will be applied to your case.
- Correct errors in your court documents or court orders.
- Change an order issued by a judge.
- Provide you contact information for another party.

If a party or attorney contacts a court clerk by telephone with a verbal request for any judicial action, the Court Clerk must tell the party/attorney to put the request in writing. The Court Clerk DOES NOT have authority to act on any judicial action. Furthermore, Court Clerks cannot verbally re-schedule a court hearing or verbally provide notice of hearing. The party/attorney must put the request in writing, however, the Court Clerk should tell the caller that the Court Clerk cannot guarantee that the judge will grant the request.

GENERAL DEFINITIONS

The following are some definitions and information which will be useful for you to know:

Judge: A magistrate judge with experience in many different areas of law who will be the neutral listener in your case; he/she will direct your case as it proceeds through the legal system and make decisions based on the information you provide and on the law.

Court Clerk: The Court Clerk of the court maintains records of all documents filed with the court and of court proceedings. They also collect filing fees, court costs and fines. They can provide court forms and written instructions.

Attorney: A person who has specialized training and has a license to practice law; he/she acts as an advocate and can give advice to the individual he/she represents.

Petitioner or Plaintiff: The person(s) starting the case with the court; this person is the one who files the paperwork which begins the case.

Respondent or Defendant: The person(s) responding to the case that was started by the petitioner.

COURT DECORUM

The court is a very traditional and place where a certain demeanor (way of acting) is expected. The dignity of the court is to be respected and maintained at all times. You must act and speak in a way that helps you with your case.

- Dress professionally, as you would for an important event. This means that your clothing should be neat and clean and that you are well groomed.
- Do not bring your children into court.
- Do not chew gum.
- Be respectful to everyone in court. This includes the judge, court staff, the other party involved in your case, witnesses, court bailiff, and any other people in the area.
- Address the judge as "Your Honor."
- Do not use profanity, argue, or verbally react to answers given in court by the judge, opposing party, or attorney. You will have your turn to speak.
- Turn off cell phones and other electronic devices.
- Remove headwear.
- Recording devices, cameras, food and drinks are prohibited in this courtroom.
- Inappropriate gestures or remarks will not be tolerated.
- Doorways should be kept clear at all times.
- Turn off cell phones.
- No making noises or talking which interferes with any court proceedings.

GENERAL TIPS

When you are representing yourself, you are trying to persuade a judge that you are right. You must act and speak in a way that helps you with your case.

Before You Begin:

- Designate a notebook or folder to hold all of your court documents and forms and to record all of the activities related to the case.
- Keep all of your legal papers and case related documents in one place and organized.
- Keep track of all conversations you have with others regarding your case.

Preparing Your Forms :

- Make sure you have chosen the correct forms for your case. Read the instructions carefully before you complete the forms.
- Make sure that all of the required information is attached to the forms and documents.
- Be prepared to pay the filing fees required for your specific court matter at the time you file the papers.
- Make photocopies for your own records.
- Look over the forms and materials you are going to present in court. Make sure they are filled in accurately and completely and that you have made the proper number of copies for the court.

Preparing for Court:

- Representing yourself in court is a big decision. In many matters, such as a disputed divorce or a complicated child custody case, it may be best to get legal advice. You may need to consult an attorney to determine that you are doing the right thing and that you are fully prepared for the court hearing. If you are unsure, it may be best to seek the help of an attorney.
- Make notes before you go to court so you are prepared and know exactly what you want to say.
- Be prepared to provide any information requested by judges and court staff. Remember: The judge cannot speak to you about your case except when your case is in court and when the other party is there. Court staff can help you with questions such as when your hearing is scheduled but they cannot give you legal advice or recommendations about what you should do.
- Dress professionally, as you would for an important event. This means that your clothing should be neat and clean and that you are well-groomed.

Going to Court:

- Be sure to take your notebook or folder in which you have recorded all related events, along with all case-related documents. Take paper and a pen for notes. You may need to prepare other necessary documents after the hearing.
- *Be on time!* The court has a very busy schedule. If you are late, your case might be postponed to another date or dismissed entirely. You also could have a judgment or unfavorable ruling made against you if you are not there to defend your case.

Other Tips:

- Always remember the four "P's": Professionalism - Punctuality - Politeness – Preparation.
- Be sure to provide the court with changes to your address and/or phone number.
- Respond to court notices and correspondence as soon as possible.

POINT OF CONTACTS

<p>EMPLOYEE CONTACT INFORMATION: Edwina Gutierrez, Court Clerk Email: edwina.gutierrez@bia.gov Office Phone: 405/247-8508 Fax: 405/247-7240 Cell: 405/933-1929 Work Schedule: 8:00 am - 4:00 pm, Monday - Thursday Duty: Civil Cases (divorce, custody, guardianship name change, probate, and civil complaints) Criminal Cases</p>	<p>EMPLOYEE CONTACT INFORMATION: Stormy Bennett, Tribal Gov't Specialist Email: stormy.bennett@bia.gov Office Phone: 405/247-1542 Cell: 405/933-2342 Fax: 405/247-9240 Work Schedule: 8:00 am - 4:30 pm, Monday - Friday</p>
<p>EMPLOYEE CONTACT INFORMATION: Andrea Phillips, Tribal Gov't Specialist/Court Admin. Email: Andrea.Phillips@bia.gov Office Phone: 405/247-1542 Fax: 405/247-9240 Work Schedule: 8:00 am - 5:00 pm, Monday - Friday Duty: Oversee functions of the court</p>	<p>EMPLOYEE CONTACT INFORMATION: Sherry Lovin, Tribal Government Officer Email: Sherry.Lovin@bia.gov Office Phone: 405/247-1534 Fax: 405/247-9240 Cell: 580/560-4463 Work Schedule: 8:30 am - 5:30 pm, Monday - Friday Duty: Supervises court staff</p>

Instructions for Filing a Petition for Protective Order

IMPORTANT INFORMATION – PLEASE READ!

These standard instructions are informational purposes only and do not constitute legal advice about your case. If you do not understand this information, please contact an attorney.

STEP 1: Complete forms.

- ☐ Petition for Protective Order

NOTE: Forms must be typed double-spaced and on letter size paper. The forms provided in this packet are guides to be used in preparing your documents for filing divorce. The forms must be re-typed. Forms must include all the required information (addresses, telephone numbers, email addresses, etc.) It is YOUR responsibility to provide the required information on the forms.

STEP 2: Obtain copies of **required** documents.

- ☐ Tribal Enrollment Verification (Tribal ID, Certificate Degree of Indian Blood, or Letter from Tribe) for Plaintiff and/or Defendant and minor child/children if listed

NOTE: Obtaining these documents is YOUR responsibility.

STEP 3: Pay filing fee of \$85.00

- ☐ **Pay Here** → <https://www.pay.gov/public/form/start/813563669> or call the court clerk and make your payment by phone @ 405-933-1929.
 - Bank account (ACH)
 - PayPal account
 - Debit card

STEP 4: Submit forms, documents and filing fee for filing to the Court Clerk.

- ☐ Petition for Protective Order
- ☐ Tribal Enrollment Verification (Tribal ID, Certificate Degree of Indian Blood, or Letter from Tribe) for Petitioner and/or Defendant and minor child/children if listed
- ☐ Filing Fee

NOTE: If all forms, documents, and filing fees are not submitted at the time of filing, it will be returned back to you, until you obtain ALL required forms, documents and filing fees for filing.

Petition for Protective Order must be signed in front of the Court Clerk or a notary public.

**IN THE COURT OF INDIAN OFFENSES FOR THE SOUTHERN PLAINS REGION
ANADARKO, OKLAHOMA**

_____,)
_____**Tribal Member or Non-Indian,**)
And/or on behalf of minor family member(s),)
_____,)
_____**Plaintiff(s),**)
VS.)
_____,)
_____**Tribal Member or Non-Indian,**)
_____**Defendant.**)

Case No. PO-____-____

PETITION FOR PROTECTIVE ORDER

COMES NOW, _____, Plaintiff herein, pro se, and for this cause of action, the Plaintiff alleges and states the following:

That the Court of Indian Offenses for the Southern Plains Region has personal and subject matter jurisdiction to hear and decide this matter in accordance to 25 CFR 11.116 and 11.1202;

1. (Check one and complete)

- ☐ That the Plaintiff is an enrolled member of the _____ Tribe and the Plaintiff's address is _____; (include city, state and zip code) and has lived at this address for _____; (state length of time in months or years at this address)
- ☐ That the Plaintiff is an non-Indian and the Plaintiff's address is _____; (include city, state and zip code) and has lived at this address for _____; (state length of time in months or years at this address)

2. (Check one and complete)

- ☐ That the Defendant is an enrolled member of the _____ Tribe and the Defendant's address is _____; (include city, state and zip code) and has lived at this address for _____; (state length of time in months or years at this address)
- ☐ That the Defendant is an non-Indian and the Defendant's address is _____; (include city, state and zip code) and has lived at this address for _____; (state length of time in months or years at this address)

3. (Check one or more)

- ☐ The Defendant has caused or attempted to cause physical harm, bodily injury, or sexual assault to Plaintiff;
- ☐ The Defendant has threatened Plaintiff;
- ☐ The Defendant has harassed Plaintiff;
- ☐ The Defendant has stalked Plaintiff;

4. The incident causing the filing of this Petition occurred on or about _____, 20____. Describe *specific facts* describing the act of domestic violence: (what happened in detail - who, what, when, where, why, etc.).

5.

Please continue on back of sheet if necessary →

6. Are there any pending actions or judgment/orders in this Court or any other court between the Plaintiff and Defendant? ☐ Yes ☐ No If "yes", please list below:

Name of Court (CFR/Tribal/State – County)	Case Name	Case No.	Case Type

7. The Plaintiff are related to the Defendant as follows: (Check all that apply)

IF NONE OF THE BELOW APPLY STOP HERE AND COMPLETE A PETITION FOR RESTRAINING ORDER.

- | | |
|---|--|
| <input type="checkbox"/> Spouse | <input type="checkbox"/> Former Spouse |
| <input type="checkbox"/> Person Related by Blood | <input type="checkbox"/> Person Related by Existing Marriage |
| <input type="checkbox"/> Person Related by Prior Marriage | <input type="checkbox"/> Person Who Resides with Defendant |
| <input type="checkbox"/> Person Who Resided with Defendant | <input type="checkbox"/> Person has a Child with Defendant |
| <input type="checkbox"/> Person in Dating/Intimate Relationship | <input type="checkbox"/> Person in Previous Dating/Intimate Relationship |

8. (Check one)

- ☐ The Plaintiff DOES NOT request an Emergency Ex Parte Order, but request the relief checked below, after notice and hearing, in a Order of Protection;
- ☐ The Plaintiff is in immediate and present danger of abuse from the Defendant and an Emergency Ex Parte Order is necessary to protect the victim from serious harm. The victim requests the following relief in the Emergency Ex Parte Order:

RELIEF REQUEST (Check all that apply)

- ☐ Order the Defendant to have no contact with Plaintiff, either in person or by telephone, at any time or place;

- ☐ Order Defendant to not abuse, threaten, injure, assault, molest, stalk, harass, or otherwise interfere with Plaintiff;
- ☐ Order Defendant to cease stalking the Plaintiff;
- ☐ Order Defendant to cease harassing of the Plaintiff;
- ☐ Order Defendant to leave or remain away from the residence located at _____;
- ☐ Other relief: _____;

9. Plaintiff requests that the Defendant be ordered to pay court costs and service fee in the sum of \$85.00. NOTE: No filing fee shall be charged to the Plaintiff at the time the petition is filed. The Court may assess court costs and service fees to either party at the hearing.

10. CAUTION:

- ☐ Weapon involved – Type: _____
- ☐ Weapon Present on Property
- ☐ Unknown if Weapon Present

WHEREFORE, the Plaintiff prays that the Court grant and issue the Plaintiff an Order against Defendant as requested in this petition and a hearing be set as soon as the Court deems necessary.

Signature

Printed Name

Street Address (include mailing address, if different)

City, State and Zip Code

Email Address

Phone No.

List Address(es) where Defendant can be served:

(Include Mailing Address if Defendant does not live on trust land)

VERIFICATION

I, _____, being duly sworn on oath states: I have read the above and foregoing document, understand the meaning thereof, and declare **UNDER PENALTY OF PERJURY**, that the facts and statements contained herein are believed to the best of my knowledge to be the truth and nothing but the truth. *I understand that I am required by Court Order to appear at the Hearing on my Petition.*

Plaintiff

Subscribed and sworn to before me this ____ day of _____, 20____.

Court Clerk/Deputy



PLEASE BE SURE YOU CAREFULLY READ ALL THE STEPS IN THIS PACKET BEFORE STARTING YOUR PAPERWORK!

PROTECTIVE ORDER

You have the right to be safe

This is to inform you about what you can do if you are being abused, stalked, or harassed by someone in your life. As a victim, you have the right to ask a judge for a Protective Order. A Protective Order from the court orders the person who has been harassing, stalking, or abusing you to stop doing so or be punished by the court.

A Protective Order is only a court paper. YOU must take other steps to plan for your safety and the safety of your children.

What is a Protective Order (P.O.)?

A Protective Order is a civil court order that is designed to stop violent and harassing behavior and to protect you from the abuser. It offers civil legal protection from domestic violence to both male and female victims. It can set limits on the abusers behavior such as:

- ❖ Order the abuser to stop abusing you and your children;
- ❖ Tell the abuser to leave and stay away from your home, work place, and family;
- ❖ Direct the abuser to have no contact with you, including no phone calls, letters, or messages through other people;
- ❖ Order the abuser to stay away from the children, their babysitter, day care, or school.
- ❖ A Protective Order is not a punishment for the abuser. It is intended to prevent future violence or harassment. However, if the abuser violates the order, the abuser can be arrested and punished.

Am I eligible to file for a Protective Order?

You can seek legal protection from acts of domestic abuse committed by a "family or household member" against you or your minor child. This means you can seek protection from:

- ❖ Spouse
- ❖ Former spouse
- ❖ Person related by blood
- ❖ Person related by existing marriage
- ❖ Person related by prior marriage
- ❖ Person who resides with you
- ❖ Person who resided with abuser
- ❖ Person who has child(ren) with abuser
- ❖ Person in dating/intimate relationship
- ❖ Person in previous dating/intimate relationship

"Domestic abuse" is when a family or household member, or someone you have had a dating relationship with:

- ❖ Physically harms you, or
- ❖ Threatens to physically harm you.

What types of Protective Orders are available?

There are two types of Protective Orders available for you:

- ❖ Emergency Order of Protection (Ex Parte Emergency Order of Protection) - The Petition for Protective Order must clearly show that an act of domestic violence has occurred.
- ❖ Regular Order of Protection (Non-emergency)

How much does it cost to get a Protective Order? Do I need a lawyer?

There are no fees for filing a Protective Order. However, if the judge finds that the order was filed for frivolous reasons or if the petitioner (person filing) fails to appear at the hearings, the judge may decide to order the petitioner to pay court costs.

You do not need an attorney to file for a Protective Order. However, if you wish, you can have an attorney represent you. Tribal Domestic Violence Programs may also be able to help you. They provide crisis and emergency services for victims of sexual assault, stalking and domestic violence. It is recommended that you contact the Tribal Domestic Violence Program. Services offered:

- ❖ Emergency Shelter
- ❖ Transportation
- ❖ Referral Service
- ❖ Counseling for Domestic Violence victims
- ❖ Court advocacy
- ❖ Child advocacy
- ❖ Protective Order assistance
- ❖ Legal assistance

Apache Tribe of Oklahoma
Violence-Free Living Programs
Phone: 405/247-9495

Bureau of Indian Affairs
Office of Justice Services
Jennifer Cole-Robinson, Victims Specialist
Phone: 918/781-4712

How do I get a Protective Order?

Step 1. Read and review this information on a Petition for Protective Order. If you have any questions regarding a Protective Order, refer to the court clerk.

Step 2. Have information about you and about your abuser on hand.

- ❖ Tribal Enrollment Card or CDIB for you or the abuser;
- ❖ Abuser's complete address;
- ❖ Specific facts describing the act of domestic violence (what happened in detail – who, what, when (date/time), where, why, etc.)

Step 3. Fill out the Petition for Protective Order (included in this packet).

Carefully fill out the petition. On the petition, you will be the "petitioner" and your abuser will be the "defendant". When describing about the most recent incident of violence, use descriptive language (slapping, hitting, grabbing, choking, threatening, etc.) that fits the situation. Be specific. Include details and dates. But remember to be honest.

If you need assistance, Tribal Domestic Violence Programs may be able to assist you in filling out the petition.

Step 4. The court clerk will review your petition.

After you finish filling out your petition, take it to the court clerk. The court clerk will review your petition to ensure that all the necessary information is provided.

Step 5. Appear for a temporary hearing.

When you appear before the judge, you will be required to answer questions under oath. The judge will decide whether or not to issue the emergency order, and will set a date for a show

cause hearing. You will be given a temporary protection order that state the date and time of your hearing.

Step 6. Service of process.

A copy of your petition and the temporary protection order must be served on the defendant. Do not try and serve the defendant in person with the papers yourself. The court will be responsible for serving the defendant.

If the judge is ordering the defendant to leave your residence, contact BIA or Tribal Law Enforcement Services to ask how you should proceed with doing so.

Step 7: Show Cause Hearing.

You must appear at the hearing. If you do not appear, your temporary protection order will expire and you will no longer be protected. If you do not appear at the hearing, it may be harder for you to be granted an order in the future and the court may assess court costs and service fees to you. If the defendant does not show up for the hearing the judge may still grant you a permanent protection order, or the judge may order a new hearing date.

At the Show Cause Hearing, you will show why you need the Protective Order. The best evidence is your honesty, verbal testimony. But other evidence can include:

- ❖ Police report(s);
- ❖ Pictures of your injuries (include date, if possible);
- ❖ Pictures of your household in disarray after an episode of domestic violence;
- ❖ Copies of the abuser's criminal records;
- ❖ Anything else to help you convince the judge you have suffered acts of domestic violence and need certain relief and protection.

However, the judge will listen to your story even if you have no evidence. Tell your story in your own words, but leave out details that have nothing to do with the physical violence or threats of violence. Also, rather than saying "He/She hit me," tell the judge how you were hit, where on your body you were hit, and how many times. Be specific.

Remember:

- ❖ Be on time;
- ❖ Dress clean and neat;
- ❖ Speak directly to the judge;
- ❖ Always address the judge as "Your Honor" and always stand when speaking;
- ❖ If you don't understand a question that the judge asks you, just say so.
- ❖ If you don't know the answer to a question, just say so. Never make up an answer.
- ❖ Be honest.

How do I get a copy of the Protective Order?

After court, the court clerk will prepare the Protective Order and you will be given a copy. Review it carefully before you leave. If you have any questions about it, ask the court clerk. If something is wrong (misspelled names, etc.) or missing information, ask the court clerk to correct the order before you leave. Keep a copy of the order with you at all times.