

**\* Advanced Topics in Full Faith and credit**



National Center on Protection Orders and Full Faith & Credit



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The opinions, findings, conclusions, and recommendations expressed in this presentation are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

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**\* About NCPOFFC**

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\*Comprehensive Technical Assistance Provider

- \*TA:
  - \* Issuance and Enforcement of Protection Orders
  - \* Federal and State DV Crimes
  - \* Federal and State DV Related Firearm Prohibitions
- \* Training (in person/webinar)
- \* Research and Guides

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**\*A brief overview...**

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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* as if it were the order of the enforcing State, Indian tribe, or territory. 18 U.S.C. §2265.

**\* Full Faith & Credit for Protection Orders**

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• Full faith and credit for protection orders means that when a protection order issued by any State, Indian tribe, or territory is violated in any other jurisdiction, it must be enforced as if the order had been issued in the enforcing jurisdiction.



**\* Basically...**

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- \* Stay Away Order;
- \* No Contact Order;
- \* Restraining Order;
- \* Harassment Order;
- \* Protection from Abuse Order;
- \* Stalking Protection Order;
- \* Injunction for Protection;
- \* Emergency, Temporary, or Ex Parte Order.

**\* Names for Protection Orders**

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*\* Any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; 18 U.S.C. §2266 (a).*

**\* VAWA Definition of Protection Order**

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\* Any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking. 18 U.S.C. §§2266 (b).



**\* VAWA Definition of Protection Order**

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\* 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 as if it were the order of the enforcing State, Indian tribe, or territory. 18 USC 2265(a)

**\* Which Protection Orders Receive Full Faith and Credit?**

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\* 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. 18 U.S.C. §2265 (b)

**\* Which Protection Orders Receive Full Faith and Credit?**

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\*All "injunctive" court orders, so long as the purpose of the order is to provide safety and protection for survivors of violence, will be afforded Full Faith and Credit. 18 U.S.C. §2266(a).

\*Custody, visitation and support provisions in protection orders *must* receive full faith and credit. 18 U.S.C. §2266(b).



### \*Which Orders Receive Full Faith and Credit?

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\*Mutual

\*Child Custody Provisions

\*Tribal

\*Military

### \*Advanced Orders

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A single protection order that includes provisions in favor of both the protected individual (petitioner) seeking enforcement and the respondent?

### \*What Type of Order is this?

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Under 18 U.S.C. § 2265(c):

Protection order provisions issued against the petitioner are ONLY entitled to full faith and credit if:

The respondent has filed a cross or counter petition, complaint, or other written pleading seeking a protection order AND the petitioner had notice and the opportunity to be heard AND the court made specific findings that each party was entitled to a protection order.

### **\*Mutual Orders - Enforcement**

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\*Sandy filed a protection order against Ed. During the final hearing the judge ordered Ed to stay at least 100 feet away from Sandy and refrain from contacting her. The judge ordered Sandy to stay away from Ed and not to contact him as well. Sandy is skiing at a resort in a neighboring state with friends when she sees Ed in the gift shop. She calls the police to enforce her order. When they arrive they see that both parties are restricted. How do they respond?

### **\*Scenario**

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\*Sandy filed a protection order against Ed. During the final hearing the judge ordered Ed to stay at least 100 feet away from Sandy and refrain from contacting her. The judge also ordered Sandy to stay away from Ed and not to contact him as well. Ed is shopping at the outlet mall across the state line when he sees Sandy two aisles over. He calls the for enforcement of the protection order. How should law enforcement respond to Ed?

### **\*Scenario**

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\*Sandy filed a protection order against Ed. Ed files a counter petition, alleging that Sandy was abusive and that he was also entitled to relief. During the final hearing the judge ordered Ed to stay at least 100 feet away from Sandy and refrain from contacting her. The judge also made findings for Ed and ordered Sandy to stay away from Ed and not to contact him. Ed is shopping at the outlet mall across the state line when he sees Sandy two aisles over. He calls the for enforcement of the protection order. Can law enforcement enforce Ed's provisions?

**\*Scenario**

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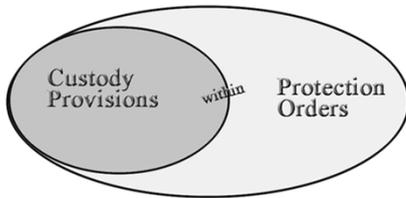
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**\* Custody Provisions within protection orders**

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Tim has a protection order from Arkansas against Mark. This order grants Tim custody of their two children in common.

Mark works and lives in your state. Tim agrees to allow the minor children to visit Mark in your state for the weekend. When Mark failed to return the children Tim calls police for assistance.

Q: How do law enforcement respond in your jurisdiction?

**\*Scenario**

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Under the federal definition of protection order, any:

\*support,

\*child custody or

\*visitation provisions, orders, remedies or relief issued as part of a protection order must be enforced.

18 U.S.C. 2266(5)(b)

**\*Federal Definition of Protection Order**

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\*Pursuant to the principles of full faith and credit, law enforcement officers should enforce out-of-state protection orders in the same way they enforce in-state orders.

\*If the officers will pick up children without a separate court order based on a custody provision within a protection order issued in that state, tribe, or territory, they should do so with orders from other jurisdictions.

**\*Enforcement of Custody Provisions in Protection Orders**

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Karen has a final protection order issued from the Poarch Band of Creek Indians Tribal Court in July 2018. She moved to your jurisdiction in September. Karen arrives home to find her ex-husband Thomas sitting on a bench outside her front door, she asks him to leave, but he refused. The police are called and Karen produces a copy of her tribal protection order. Is the order enforceable?

Can you require her to register the order prior to enforcement?

**\*Scenario**

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Protection orders issued by Tribal courts must be enforced by law enforcement and the courts of States and Territories.

18 U.S.C. §2265 applies to tribal court orders

**\*Tribal Protection Orders**

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Tribal courts have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to

- \*Enforce any orders through civil contempt proceedings;
- \*Exclude violators from tribal land; and
- \*Use other appropriate mechanisms within the tribes authority in matters arising anywhere in the Indian country of the Indian tribe [as defined in section 1151 (18 U.S.C §1151) or otherwise within the authority of the Indian tribe.

**\*Tribal Court Jurisdiction  
18 U.S.C. § 2265(e)**

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Tribal jurisdiction over crimes of domestic violence, dating violence and criminal violations of protection orders- VAWA 2013

- \*Recognizes and affirms tribal criminal jurisdiction over all persons committing domestic violence, dating violence, and violation of protection orders within tribal lands.
- \*Exceptions for when both parties are non-Native, or when defendant lacks significant ties to Tribe.
- \*The authority of the U.S. Attorneys (and state/local prosecutors, where they have jurisdiction) to prosecute crimes remains unchanged.
- \*A tribe must protect the rights of the Defendants under the Indian Civil Rights Act of 1968 and the Tribal Law and Order Act of 2010.

See for additional details and information:  
<http://www.justice.gov/tribal/violence-against-women-act-vawa-reauthorization-2013-0>

**\*Tribal Jurisdiction Over Crimes of  
Domestic Violence- 25 U.S.C. § 1304**

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\* VAWA 2013: Special Domestic Violence Criminal Jurisdiction over Non-Indians

\* [www.ncai.org](http://www.ncai.org)

\* For TA:

\* SWCLAP

\* NIWRC

\* TLPI

## \*Tribal Protection Orders

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MPOs generally do not meet the requirements for inter-jurisdictional enforcement.



## \*Military Protection Orders and Full Faith and Credit

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## \*Military Protection Orders

\* May use Department of Defense Form 2873, but it is not required.

\* MPOs should be tailored to meet the needs of the survivor.

\* MPOs should not contradict a CPO, but may be more restrictive.

\* May enforce MPO against service member on and off installation.

\* If the service member violates an MPO, he or she may be punished under the UCMJ.

□ See - Department of Defense Instruction Number 6400.06

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\*Federal law allows for civilian protection orders to be enforced on military installations. See 10 U.S.C. §1561a

\*Civilian Orders of Protection shall have the same force and effect on military installations as they do in the issuing jurisdiction. 10 U.S.C. §1561a(a)

\*Civilian Order of Protection is defined the same as the definition used in 18 U.S.C. § 2266(5). See 10 U.S.C. §1561a(b)

### **\*Enforcing Civilian Orders on Military Installations**

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\*Mike is a captain in the Air Force. He is stationed at Andrews Air Force Base in Maryland. He and his wife, Alexa, live off base in a nearby town. Alexa sought a protection order against Mike in the local MD court against Mike. He is to refrain from abusing her, threatening her, and he must return her banking cards and ID. Mike has also temporarily moved in to barracks. This morning, Mike saw Alexa's car parked outside of the commissary. He found her inside and grabbed her by the arm forcing her out of the store. He demands her ID and her banking cards. Alexa is struggling, and a bystander alerts a nearby MP about a possible disturbance. When the MP questions Alexa, she produces her

### **\*Scenario**

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\*Changing the Facts...

### **\*Scenario**

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**\*Questions?**

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**\* Full Faith and Credit Publications  
available at [www.fullfaithandcredit.org](http://www.fullfaithandcredit.org)**



The National Center on Protection Orders and Full Faith & Credit is pleased to announce the publication of four new practitioner guides on full faith and credit.

To download a free copy of these publications, please visit [www.fullfaithandcredit.org](http://www.fullfaithandcredit.org). A limited number of paper versions of the publications are available upon request. The National Center on Protection Orders and Full Faith & Credit provides training and technical assistance on protection orders, full faith and credit provisions of the Violence Against Women Act (VAWA), federal and state firearm prohibitions as they relate to domestic violence, the federal domestic violence and stalking crimes, and enforcement of child custody provisions within protection orders.

National Center on Protection Orders and Full Faith & Credit  
1-800-903-0111 prompt 2, 703-512-7922; Fax: 703-512-7966  
[ncffc@bwjvp.org](http://ncffc@bwjvp.org) • [www.fullfaithandcredit.org](http://www.fullfaithandcredit.org)

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\*For assistance, please call: (800) 903-0111, prompt 2.

\*Email: [ncffc@bwjvp.org](mailto:ncffc@bwjvp.org)

\*Web: [www.fullfaithandcredit.org](http://www.fullfaithandcredit.org)

\*Informational Materials & Brochures

\*Technical Assistance & Problem-Solving

\*(On-Site) Individualized Training  
Education/Webinars

**\* National Center on Protection Orders  
and Full Faith & Credit**

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**\*Thank you!**

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