



Wabanaki Legal News

Volume 8 Issue 1

www.ptla.org/wabanaki/wabanaki.htm

A Newsletter of Pine Tree Legal Assistance

Winter 2004

This issue of the *Wabanaki Legal News* contains a number of articles focusing on domestic violence issues.



Domestic Violence

By Judith Plano

G had been D's wife for 20 years. She thought it was a good marriage and really loved him. Sometimes he was very loving and charming and those were the times that made it all worthwhile. Other times he would get very angry with her. Once he threw his plate of food against the wall because she did not have dinner on the table in time. Another time he tore the phone out of the wall when she was talking with her sister. One day she came home from work to find the cat dead on the doorstep. D had gotten angry when the cat threw up on the rug.

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Tillie Black Bear Named as One of 21 Leaders for the 21st Century 2004

On January 1, 2004, *Women's eNews* announced its selection of 21 Leaders for the 21st Century in 2004. Among those honored was Tillie Black Bear, the Executive Director of the White Buffalo Calf Woman Society and a member of the Sicangu Lakota Nation/Rosebud Sioux Tribe. The Society, established in 1978, is the oldest shelter for rape and domestic violence victims abused on Native American reservations. It helps 300 women and 600 children each year to end the violence in their closest relationships.



As a victim of domestic violence, Black Bear attended a 1978 two-day symposium hosted by the U.S. Commission on Civil Rights on wife battery. After an impromptu gathering in the restroom of the convention's hotel, Black Bear and a group of fellow attendees pledged to give victims of domestic violence a national voice. The group called themselves "the Bathroom Sisters."

That year, Black Bear and other Bathroom Sisters formed the National Coalition against Domestic Violence to educate the public about domestic violence. The Coalition helped to pass the 1994 Violence Against Women Act. After forming the Coalition, Black Bear formed the South Dakota Coalition Against Domestic Violence and Sexual Assault and was a founding member of the White Buffalo Calf Woman Society.

Outreach

Staff of the Native American Unit travel on a regular basis to the Tribal communities in Presque Isle, Houlton, Indian Island, Pleasant Point, and Indian Township to meet with clients. We travel to the communities at least quarterly to meet with people and/or present workshops. If you have a question or want to meet with us, please call to arrange a date and time. Call 1-800-879-7463 and ask for Judith or Danny. Also, outreach dates will be posted in the tribal offices at least one week prior to our visit.



Pine Tree Case Summaries



The following are summaries of some of the cases Pine Tree Native American Unit attorneys have handled over the last six months. You can call attorneys Judith Plano or Mike Guare or paralegal Danny Mills at 1-800-879-7463.

Guardianship:

The client's nephew was under the guardianship of the Department of Human Services. Pine Tree represented the client as an intervenor in a DHS proceeding and successfully argued that the client should be appointed the guardian instead of DHS. Pine Tree ended up representing the client in both state and probate court. The client now has legal guardianship of her nephew and DHS is no longer involved.

Housing:

Judith Plano has filed a housing discrimination complaint with HUD on the basis of racial discrimination. The Maine Human Rights Commission is now investigating.

In another case, Judith recovered a security deposit that was owed to a client. It took many months, many phone calls, and finally driving to meet the property manager to get a check in-hand.

In a third case, the client was living in a trailer that did not meet the warranty of habitability standards. The client called code enforcement and then received an eviction notice. Pine Tree went to court with pictures of the many violations. The judge ruled that it was a case of retaliation and the client was not evicted. The client later found other housing without being forced out onto the street with his family.

In yet another housing case, the client was being evicted for not reporting a misdemeanor conviction on the housing application. Judith was able to negotiate with the housing authority attorney. The client was pregnant and was on the waiting list for reservation housing. As a

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("Domestic Violence" continued from front page)

But, really, it was a good marriage and G knew that it could be a better marriage if only she could learn to be a better wife. D was always telling her that if she could only follow the rules, he would not have to get angry with her. She knew it was her fault. D had had to stop the phone service because she was always talking with her mother and sister. She needed to learn how to be a good Indian wife. Didn't D always tell her that in an Indian family the man was the master of the house. He didn't want his woman acting like a white woman.



H had been living with J for three years. Their child, a girl, was 2 and H was expecting another child, again a girl. She had been really sick during this pregnancy and the doctor had told her that she needed to rest. However, she found this difficult to do. J refused to help around the house. He told her she was no good, that all she could produce was girls and that girls were good for nothing but sex. He forced her to have sex with him even though the doctor said that she could lose the baby. Once, early in the pregnancy, when she was feeling pretty good, he hit her in the stomach really hard when she came back from a trip to town. "Don't you never go where I don't know where you are, slut," he had said to her.

H was scared for her unborn baby's safety but did not know what to do. She did not have a job. She couldn't pay for another place to live. And J told her that if she ever tried to leave him he would kill her and the children. She was afraid that if she went to stay with her mother he would kill the whole family. She knew he would do it because he had a hunting rifle that he would wave at her when he got really mad.

ARE YOU BEING ABUSED?

- Are you afraid of upsetting your partner?
- Are you able to come and go as you please from your own home?
- Does your partner put you down or call you names?
- Does your partner threaten or intimidate you, physically or verbally?
- Does your partner force you to have sex?
- Does your partner call you dirty during your moon time?
- Does your partner get jealous or refuse to let you spend time with family or friends?
- Do you have to account for your time?
- Has your partner been violent with pets or your children?
- Does your partner act like two different people – one nice and charming and the other scary and violent?
- Does your partner say you are not Indian enough?
- Does your partner blame you for his violence?
- Does your partner make prayers against you?
- Does your partner use spiritual ways as a threat?
- Does your partner control the finances and refuse you access to the family income?
- Does your partner insult your Indian heritage?

If any of this sounds too familiar, Pine Tree Legal Assistance provides free legal assistance with protection from abuse proceedings to eligible Native Americans who are victims of domestic violence. Call the nearest Pine Tree office for help:

Native American Unit:	1-800-879-7463
Portland:	774-8211
Presque Isle:	764-4349
Bangor:	942-8241
Augusta:	622-4731
Machias:	255-8656
Lewiston:	784-1558

You can also call one of the domestic violence hotlines listed below. Talk with the advocate. Tell her what you have experienced. She will be able to help you by providing:

- crisis intervention
- domestic violence information
- confidential, emotional support
- safety planning
- advocacy
- resource information and referral
- help in getting protection from abuse/harassment orders
- accompaniment to Tribal or non-Tribal Court proceedings
- help in securing emergency shelter
- material and labor to replace door locks
- emergency cell phone
- transportation to access other services needed as result of domestic violence

Domestic Violence Hotlines

Native American Services:

◆ **Peaceful Relations** (Pleasant Point): 853-2600, ext 250 (office number)

www.wabanaki.com/Peaceful_Relations/default.htm

Hotline:

(toll-free) 853-2613
853-2551

Or call the Tribal Police:

e-mail: nancy@wabanaki.com

◆ Indian Township Health Center

(Indian Township):

796-2321
(toll-free) 1-877-796-2020

◆ Houlton Band of Maliseets:

During Office Hours (M-F 8-4):

532-6401

After hours:

694-1353

◆ Aroostook Band of Micmacs

(Ask for Sarah Dewitt)

764-1972

◆ Penobscot Indian Nation:

(Ask for Clarice Chavaree)

817-7491

Other Domestic Violence Services:

Penobscot County

Spruce Run

947-0496

1-800-863-9909

www.sprucerun.net/

Washington County

Peaceful Choices

1-888-604-8692

(Machias Hotline)

255-4785

www2.whcacap.org/services/peaceful_choices.shtml

Aroostook County

Battered Women's Project

1-800-439-2323





("Summaries" continued from front page)

result of the negotiations, the client was able to stay until a month after baby was born to give the client and baby some adjustment time. This time also allowed client to find housing on the reservation.

Miscellaneous:

In other cases, Pine Tree represented an elder in a divorce and wrote wills and medical power of attorneys for two disabled clients.



American Bar Association Commission on Domestic Violence

Five Ways to Fight Domestic Violence

1. Know What Domestic Violence Is.

When spouses, intimate partners, or dates use physical violence, threats, emotional abuse, harassment, or stalking to control the behavior of their partners, they are committing domestic violence. Most victims of domestic violence are women. Children who witness domestic violence are also victims; they suffer from behavioral and cognitive problems. Boys, especially, are more likely to be aggressive and engage in criminal behavior if they grow up in homes where domestic violence exists.

2. Develop A Safety Plan.

If you, a relative, a friend, or a neighbor are experiencing domestic violence, think about ways to make yourself safer. Leave a spare set of keys, emergency money, important phone numbers, and documents like birth certificates, passports, bankbooks, and insurance papers in a safe place your batterer doesn't know about, for example, with a trusted friend or relative. Plan how to get out of your home quickly and safely, should a battering incident begin. Think about a safe place to go to once you leave your home. If you can, learn local crisis hotline numbers, so that you can call for advice or assistance.

3. Call 911.

If you are being battered -- or you know that a relative, friend, or neighbor is being battered by a spouse or intimate partner -- call the police right away for help, if you can get to a phone safely. Don't be afraid to ask for immediate help. Domestic violence is a crime, not a "private family matter."

4. Exercise Your Legal Rights.

You -- or anyone else experiencing domestic violence -- have the right to go to court and petition for an order of protection if you have been battered in one of the fifty states, Puerto Rico, and the District of Columbia. In most parts of the country, you can also ask for custody of your children and child support at the same time. You should try to get a lawyer to represent you and protect all of your rights



Pine Tree Legal Assistance is a non-profit organization that gives free legal help to poor people with civil (non-criminal) legal problems.

Due to federal budget cuts, Pine Tree has lost some staff. As a result, Pine Tree has had to limit the types of cases that it handles. We have given high priorities to the following kinds of case:

- ✖ Eviction from public housing
- ✖ Home foreclosures
- ✖ Domestic violence
- ✖ Problems with MaineCare
- ✖ Loss, reduction or denial of government benefits (food stamps, TANF, Social Security, etc.)
- ✖ Tax Problems

If you are low-income and need legal help in one of these areas, call the nearest Pine Tree office. If you are a farmworker with employment problems, call the Farmworker Unit at 1-800-879-7463.

Pine Tree has a Native American Unit in Bangor. The number is 1-800-879-7463. Call the unit if you are a low-income Native American with civil legal problems.

under the law. Call your state or local coalition against domestic violence, a state or local crisis hotline, or the state or local bar association to learn more about where to find legal help.

5. Get Help For Your Family So That The Violence Will Stop.

There are many services available to help families struggling with domestic violence. Look in the phone book for the number of your state or local domestic violence coalition or crisis hotline for help in locating the financial, housing, and counseling services needed to break free of domestic violence.

Domestic violence affects us all.

The justice system is struggling with an increasing number of cases relating to domestic violence. The business community suffers a loss of employee productivity and absenteeism because of domestic violence. We all need to take steps to end this national problem. Volunteer your time to help at victim services programs. Support your local shelter by organizing fundraising activities. Help stop the violence now.

For more information about the Commission and its activities, contact the Commission staff at

ABA Commission on Domestic Violence
740 15th Street, NW, 9th Floor
Washington, DC, 20005-1022



THE PYRAMID v. THE CIRCLE

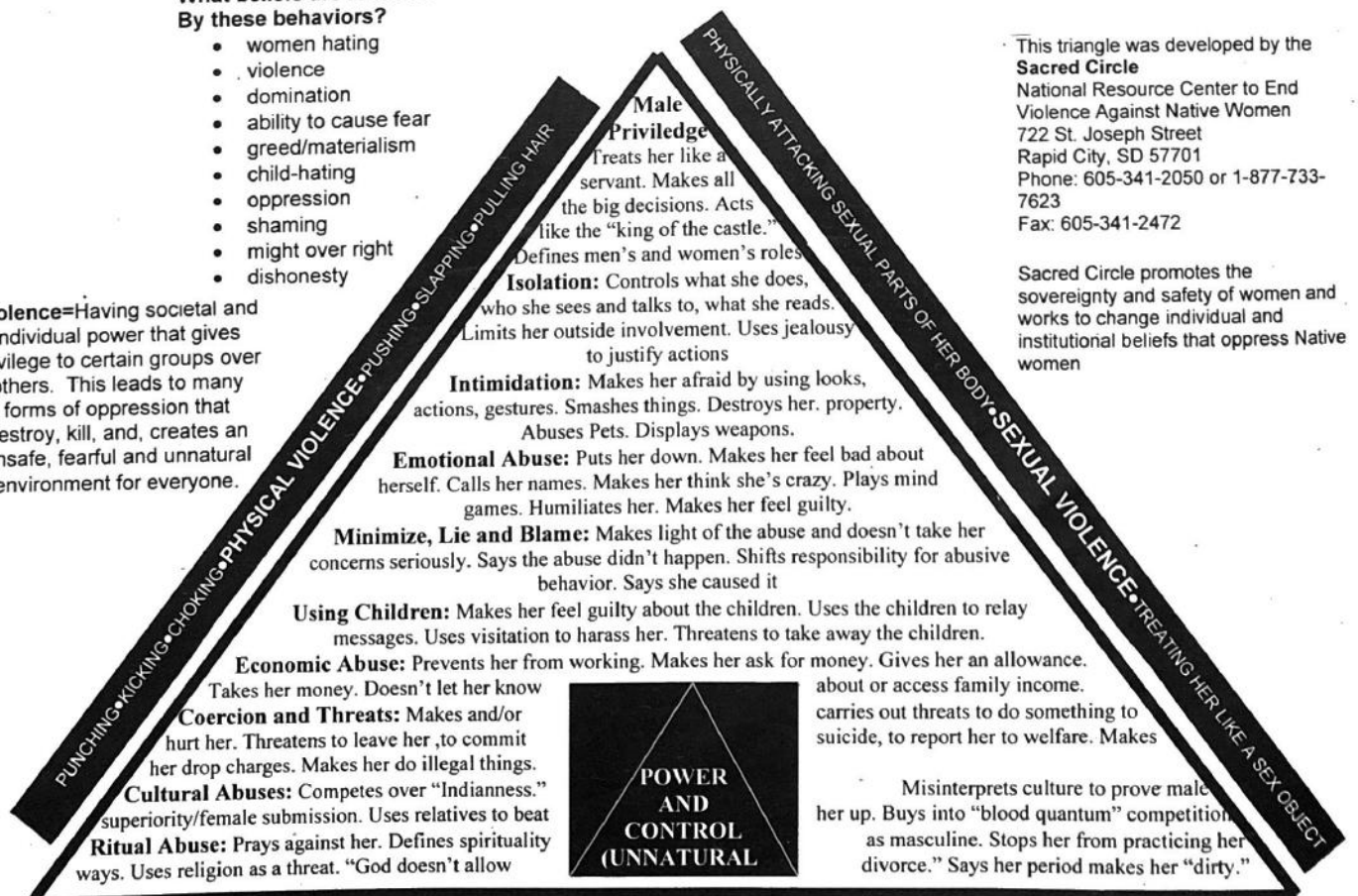
In Native spirituality the circle is sacred. Using a circle to show the unnatural power and control present in domestic violence is a misuse of a sacred symbol. The Native community has changed the circle image used by the white community into a pyramid which is printed below. Also below is a circle. But this is not a circle describing behaviors that hurt. It is a circle that describes behaviors that can help heal. This model was developed by Mike Jackson and David Garvin. It is the Coordinated Community Action Model and can be found on the website of the Minnesota Center Against Violence and Abuse (www.mincava.umn.edu/documents/ccam/).



What beliefs are reflected By these behaviors?

- women hating
- violence
- domination
- ability to cause fear
- greed/materialism
- child-hating
- oppression
- shaming
- might over right
- dishonesty

Violence= Having societal and individual power that gives privilege to certain groups over others. This leads to many forms of oppression that destroy, kill, and, creates an unsafe, fearful and unnatural environment for everyone.



This triangle was developed by the **Sacred Circle** National Resource Center to End Violence Against Native Women 722 St. Joseph Street Rapid City, SD 57701 Phone: 605-341-2050 or 1-877-733-7623 Fax: 605-341-2472

Sacred Circle promotes the sovereignty and safety of women and works to change individual and institutional beliefs that oppress Native women



Between A Rock And A Hard Place

By Judith Plano

So, you understand about domestic violence. When your partner grabbed you by the hair and dragged you across the floor you called the police. But now the police have called DHS. If you don't leave the home with your children, DHS is going to remove the children. Where can you go? You don't have a job, or you only work part-time while the children are in school. How can you pay for an apartment? The list for Tribal Housing is three years long. You do not want to move in with a family member because your partner has threatened to hurt anyone who helps you.

These are hard questions and harder decisions. Victims of domestic violence face them every day in every city and town and reservation in the United States. Sadly, there are no ready answers. Research has shown that domestic violence is a major cause of homelessness throughout the United States. Some women become homeless when their children are put into foster care as a result of the domestic violence they have witnessed. This leaves the woman ineligible for TANF or child support and can also force her out of her present rental, Section 8, or subsidized housing because, as a single person, she no longer qualifies for the unit.

Some women become homeless because their batterer fails to pay child support. Even though the mother and children remain in the family home, without child support or a well paying full-time job, there is no money for rent or house payments. In order to protect herself and her children a woman must ask the court for a full protection order that keeps the batterer away from her home and workplace; stops him from all contact with her including contact through other people; gives her the family residence; and orders the batterer to pay adequate child support, ideally, through payroll deductions.

Many women fail to appear in court for the hearing to obtain a permanent protection from abuse order. Lack of money or housing forces them to return to the abuser before they ever get to court. Research has shown that as many as 60% of women and children seeking shelter in larger cities are turned away for lack of space. Luckily, many women living on reservations can turn to family members for temporary housing when a partner becomes abusive. However, sometimes that is not possible due to illness or fear of revenge by the batterer.

In addition, children's lives are often upset by the frequent moves that can be caused by domestic violence. They can become distracted and inattentive in school and they act out at home. Many women return to their batterer in the mistaken belief that the children will be better off living with both parents. As we will discuss in the next issue, studies have shown that children living in a home where domestic abuse occurs, suffer more health and mental health problems than children whose parents are divorced or separated.

Some human service departments consider a mother unfit if her children have witnessed domestic violence. Advocates for battered women argue that taking children from their mother on the basis that she has been abused is punitive and can have harmful and long-term effects on the children and the entire family. The substantiation of abuse and neglect, solely on the basis of the abuse she has received, can remain on a battered woman's record forever.

Maine State DHS has a list of persons substantiated for abuse and neglect and failure to protect. ("Substantiation" is a term that DHS uses to mean that they have "evidence" that a person has abused and/or neglected a child and the person has also failed to protect the child from harm. The "evidence" is not the kind that would stand up in court. It is often only what someone has told the DHS worker. If there is domestic violence in the home, DHS will automatically "substantiate" for failure to protect.) Unless you were substantiated after November 1, 2003, you cannot appeal the substantiation, unless the substantiation interferes with finding or keeping a job. And because, prior to November 1, 2003, the state did not have to notify you of the substantiation, you very well might be on the list and not even know it! The fact that you are on a list of "substantiated" child abusers only surfaces when you try to get a job as a CNA, day-care worker, teacher or any other occupation where the hiring parties must check the list prior to hiring.

This is the no-win situation many women face when they are in abusive relationships. If they stay in the relationship, they risk having their children removed from the home by DHS. If they remain in the home and the batterer leaves, they face the prospect of losing their housing because they cannot make the payments. If they leave the home, they might not be able to find or to afford alternate housing. It seems as if there is no solution. Services to victims are improving. Judges and police officers help victims and punish batterers. And still women face the loss of their children or their homes or both when they try to leave abusive situations. It is clear that the next hurdle to be cleared by those working in the field of domestic violence and those living through the horror of domestic violence is the hurdle of prevention. To protect our families and our children we need to teach the coming generations of boys that violence against women is **always** wrong.

Note:

The articles in this paper assume that the victim is a woman. Research has shown that 95% of abusers are male. In using the male-model of abuse, there is no intention to invalidate those 5% of males who suffer abuse at the hands of their domestic partners. Anything that is written here applies to a male victim of abuse as well as a female victim.



Native American Legal Briefs

--Internal Tribal Matters--

Trial Court Did Not Have Enough Evidence To Decide That Case Involved An Internal Tribal Matter

In January of this year, the Maine Supreme Judicial Court, or Law Court, reversed a finding by the Superior Court that a case involved an internal tribal matter and should be heard in Tribal Court. The Law Court did not reject the reasoning of the Superior Court. It merely found that there was not enough evidence in the record to support the Superior Court's finding and that the Superior Court's ruling was premature.

The case involved a complaint filed by Pamela Francis against Colleen Dana-Cummings, former Executive Director of the Pleasant Point Passamaquoddy Housing Authority. Ms. Francis claimed that she had experienced a violation of the Maine Civil Rights Act, a trespass, and an illegal eviction. Ms. Francis claimed that Ms. Dana-Cummings directed several members of the Housing Authority to break into Ms. Francis' residence, remove the furnishings, change the locks and place a sign on the door stating that the residence was the property of the Housing Authority. The employees, according to the complaint, then broke Ms. Francis' door and removed much of her furniture. Ms. Francis claimed that most of her belongings were returned, but that some were damaged or destroyed.

The Superior Court, on the Motion of Ms. Dana-Cummings, dismissed the complaint, finding that the case involved an internal tribal matter. The Court stated that the dispute involved "two tribal members" and the "subject matter is tribal law and policy regarding various property issues." The Law Court, however, found that "[t]he record is not sufficiently developed to allow the trial court to make that determination."

In examining the case, the Law Court found that the record did not show that the dispute was in fact between two tribal members, although the Court acknowledged that it might well turn out to be the case that the two women were tribal members. The Court also found that the record did not show that the dispute arose out of tribal law and regulations. The record did not show what kind of real property interest Ms. Francis has in her residence, if any, nor whether that interest was based on state law or tribal law. Accordingly, the Court sent the case back to the Superior Court to make those determinations. If, based on the record later developed in Superior Court, the Superior Court finds that the case actually involves an internal tribal matter, it can dismiss the case later.

EPA Authorizes Maine To Issue Water Permits In Tribal Territories But Retains Authority For Certain Tribal Facilities Entirely On Tribal Lands

On October 31, 2003, the Environmental Protection Agency announced its decision allowing the State of Maine to issue and enforce federal water pollution control permits for all non-tribal facilities with waste water pipes discharging in or near tribal territories within the State. The decision disagreed with the end result advocated by the Department of the Interior (see *Wabanaki Legal News*, Volume 4, Issue 2, www.ptla.org/wabanaki/WME-7TribalBriefs.htm).

This decision follows EPA's 2001 decision to allow the State to issue water permits for areas of Maine not involving tribal lands. The EPA made an exception to its general ruling, however. Discharges from the Penobscot Nation's sewage treatment plant on Indian Island and the Passamaquoddy Tribe's facility on Pleasant Point will not be regulated by the State. In making this exception, EPA held that, since the customers of both facilities were all tribal members, the facilities were both owned and operated by the Tribes, and the discharges have minimal impacts in waters outside the Tribe's territories, the discharges from these two plants were internal tribal matters. As such, the State had no authority to regulate the discharges and the EPA would keep its jurisdiction. The decision did not address the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs.

In deciding that the State should be granted authority to regulate all but the two Native facilities, the EPA looked at the terms of the Maine Indian Claims Settlement Act and declared that the status of the Penobscot and Passamaquoddy Tribes was "unique in federal law." After analyzing the language of the Settlement Act, the EPA found that the Act "unambiguously granted the state adequate authority to administer the ... program in the Indian Territories."

In making its determination, the EPA acknowledged that:

Clearly, the physical setting of the southern tribes in such close proximity to important rivers and waters makes surface water quality very important to them and their riverine culture.

Nevertheless, the EPA concluded that the language of the Settlement and the Implementing Acts gave the State jurisdiction over "water and water rights." The only remaining question, then, was whether State authority in these matters would interfere with "internal tribal matters." The EPA stated that it:

recognizes that regulation of discharges into these rivers is vitally important to the southern tribes, but ... water quality in these rivers is also vitally important to the state and its non-tribal member citizens.

(Continued on next page)



("Briefs" continued from page 6)

The EPA stated further:

Given the state's strong interest in regulating discharges to waters in Maine, the fact that all but three of the discharges to Indian Territory waters are by non-member facilities and all but two have their operations located outside of the Indian Territories by any interpretation of Indian Territory boundaries takes on great significance.

The EPA concluded that the permits were not an internal tribal matter.

EIC Certification Pilot

This year 25,000 workers who claim the EIC will be asked to submit verification with their 2003 tax return proving that their child lived with them for more than half the year. Only those tax filers selected by the IRS — a tiny fraction of those who claim the EIC — will be required to participate in this test.

What is EIC "certification?" EIC Certification is a new procedure the IRS will test during the 2004 tax-filing season. In December 2003, the IRS plans to send a new EIC form — Form 8836, "Qualifying Child Residency Statement" — to a pilot test group of 25,000 tax filers. The IRS will require these filers to complete Form 8836 and to supply verification from third parties, such as school officials, clergy or child care providers, proving that any child claimed for the EIC lived with the filer for more than half of 2003.

Which workers will be affected? The 25,000 workers selected for the pilot test will be drawn from workers who previously claimed the EIC on their 2002 tax return. The IRS will pick the workers from the following categories:

- grandparents, aunts, uncles, and other such relatives who are raising their grandchildren, nieces or nephews;
- stepparents, foster parents; and
- single fathers claiming their own child.

Married parents and single female parents claiming their own children are not the focus of this pilot test. Low-income workers *not* claiming a child are unaffected. **Workers who are not selected for the pilot test will not be subject to any new requirements.**

Why is the IRS doing this? Why were these categories of workers picked? In 2002, the IRS and Department of Treasury formed a task force to control errors in EIC claims. IRS data indicated that workers in the categories noted above were more prone than others to submit EIC claims with errors regarding the child's residency. The IRS decided to test the new certification procedure on workers selected from these categories. If you get a certification notice *you are not presumed* by the IRS to have previously claimed the EIC in error.

Free Legal Help with Tax Problems

Pine Tree Legal Assistance can help low-income taxpayers who are having tax problems with the IRS, including audits. In addition, clinics are being planned to help low-income Native American taxpayers prepare their taxes for the first time and to help with any questions about the Earned Income Credit. For more information, call Paul Harrison at 1-800-879-7463.

Important Tax Information

Marriage Penalty Eliminated for 2003

For the 2003 tax year, Congress has eliminated the so-called "marriage penalty," under which the standard deduction for married taxpayers was less than twice the standard deduction for a single taxpayer. The standard deduction for a single taxpayer in 2003 is \$4750, and it will be \$9500 for married taxpayers who file joint returns and \$4750 each for those who file separately.



Claim your Earned Income Credit

If you worked in 2003, you may be eligible for the Earned Income Credit. If so, you'll owe less in taxes, and you could get cash back. Even if you don't owe income tax, you can get the EIC.



- * If you raised one child in your home in 2003 and your family earned less than \$29,666 (or \$30,666 for married workers), you can get up to \$2,547.
- * If you raised more than one child in your home in 2003 and your family earned less than \$33,692 (or \$34,692 for married workers), you can get up to \$4,204.
- * If you weren't raising a child, were between the ages of 25 and 64 on December 31, 2003, and earned less than \$11,230 in 2003, you can get up to \$382.
- * If you were raising children in 2003, you must file federal tax return Forms 1040 or 1040A and **must** fill out and attach Schedule EIC. **You cannot get the EIC if you fill out Form 1040EZ or fail to attach Schedule EIC.** Married workers must file a joint return.
- * If you weren't raising children in 2003, file the return you would normally file (including the 1040EZ). Be sure to write "EIC" or the dollar amount of your credit on the Earned Income Credit line of your tax form. **Do not** file Schedule EIC.
- * You don't have to calculate your own EIC. If you choose, the IRS will do it for you.
- * A correct name and social security number must be provided for every person listed on the tax return and Schedule EIC. If this information is incorrect or missing, the IRS will delay the refund.



Questions & Answers About the EIC:



Which children qualify for the EIC?

The following children qualify:

(Continued on next page)



("EIC" continued from page 7)

- ✓ Sons, daughters, stepchildren, grandchildren, and adopted children
- ✓ Brothers, sisters, stepbrothers, or stepsisters – as well as descendants of such relatives – if they were cared for as members of the family
- ✓ Foster children who have been placed with you by an authorized government or private placement agency
- ✓ Qualifying children must live with you for more than half of the year. (As of 2002, a full year is no longer required for foster children.) They must be under age 19, or under age 24 if they are full-time students. Totally and permanently disabled children of any age also may be qualifying children. Valid Social Security numbers are required for qualifying children born before December 31, 2003.

Can military personnel claim the EIC?

Military personnel can claim the EIC (and the Child Tax Credit), whether they live in the United States or overseas. Also, under a new definition of "earned income" in effect since 2002, more members of the military may qualify for the EIC or receive a larger benefit.

Military personnel who live with qualifying children while stationed on active duty outside the U.S. can be eligible for the EIC. Even if the qualifying children of a member of the military who is stationed overseas remain in the U.S., they may be claimed for the EIC. This is because IRS considers an individual assigned to an overseas tour of duty to be temporarily absent from the U.S. due to a special circumstance. The length of time the person is absent is treated as though he or she was in the U.S., as long as the individual plans to return to his or her main home in the U.S. at the end of the military assignment. Military couples living apart due to military assignment must still file a joint return to receive the EIC.

An individual in the military under age 19 may be claimed as a qualifying child. If such an individual is temporarily absent due to an overseas military assignment, he or she still may be considered a qualifying child as long as he or she intends to return home at the end of the military assignment.

Under new rules in effect since 2002, non-taxable combat pay and allowances for housing and subsistence — including the value of meals and lodging furnished in-kind to personnel residing on military bases — are no longer considered earned income for EIC purposes. Such pay and allowances are indicated on W-2 forms, but no longer are added to regular wage income to calculate eligibility for the EIC. In many cases, this will result in a larger EIC refund since the amount of earned income considered for the EIC is reduced. The purpose of this rule change was to simplify claiming the EIC. Veterans' benefits and military retirement pay are not considered earned income.

For further information on EIC rules for military personnel, see IRS Publication 3 "Tax Information for

Military Personnel (Including Reservists Called to Active Duty)."

Can I get a quick refund with my Earned Income Credit?

Yes. But it may not be your best choice. Quick refunds take away money from your EIC. Remember, free tax help is available.

What if I'm not a U.S. citizen?

Many legal immigrants who are employed are eligible for the EIC. Getting the credit will not hurt your immigration status. If you are a Canadian-born Native American, you may be eligible.

I work and get public Assistance benefits. If I get the EIC, will I lose my other benefits?

In most cases, no. The EIC does not affect federal benefits like TANF, Food Stamps, SSI, Medicaid or housing.

Get FREE Help Filing your Taxes!

Pine Tree Legal Assistance is a partner in the I-CAN Earned Income Credit project. If you are eligible for the Earned Income Credit (EIC), you can use I-CAN to prepare your tax returns on-line, and if you choose, to file them electronically. Click on our website at www.ptla.org/cliented/taxpayer/icanindex.htm and follow the easy instructions. For other tips on filing, click on our website at www.ptla.org/cliented/taxindex.htm.



The IRS offers free assistance by computer, telephone, fax and in person. The IRS can help taxpayers get forms, publications and answer a wide range of tax questions. The IRS can also help find free tax preparation for those who qualify.

Personal Computer: Through the Internet, taxpayers can access free tax information on IRS.gov. A new feature for IRS.gov this year is 1040 Central, which has all the help, forms and information taxpayers need to file their returns. Taxpayers may also check on the status of their refund using the Where's My Refund? tool.

TeleTax: Taxpayers may call 1-800-829-4477 to hear pre-recorded messages covering various tax topics or to check on the status of their refund.

TaxFax Service: By using the phone attached to a fax machine, taxpayers can receive faxed forms and publications by calling 1-703-368-9694 (not a toll-free call). Taxpayers should follow the directions from the prompts.

Telephone: Taxpayers may order current and prior year forms, instructions and publications by calling 1-800-TAX-FORM (1-800-829-3676). Taxpayers may ask the

(Continued on next page)



("Free Help" continued from page 8)

IRS tax questions by calling the toll-free customer service line at **1-800-829-1040**. TTY/TDD users may call **1-800-829-4059**.

Walk-In Service: Many post offices, libraries and IRS offices have tax publications, forms and instructions available to pick up.

Taxpayer Assistance Centers: Taxpayers needing face-to-face help solving individual or business tax problems can get help every business day in every IRS Taxpayer Assistance Center. Although appointments are not necessary, taxpayers may call ahead to make an appointment at a time convenient to them or to hear a recorded message with office hours and locations. Local phone numbers for Taxpayer Assistance Centers are available in telephone directories and are posted at IRS.gov. The IRS provides non-English-speaking taxpayers equal access to all services through a phone interpreter.

Assistance with Returns: Free tax preparation is available through the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs in most communities. Volunteers help prepare basic tax returns for taxpayers with low or limited incomes. To find a VITA site near you, click on Pine Tree's website at www.ptla.org/vita.htm or call the IRS at **1-800-829-1040**. Taxpayers may also call AARP – the largest TCE participant – at **1-877-227-7844** to see if they are near a local Tax Aide site.

Braille Tax Material: A variety of Braille material may be ordered at no charge by calling the IRS at **1-800-TAX-FORM (1-800-829-3676)**. The Braille print files are in .brf format and can be sent directly to an embosser for high-quality Braille output.

Publication 910: To find out what free tax services are available, taxpayers should get IRS Publication 910, Guide to Free Tax Services. **Remember: paying for tax preparation takes money away from YOUR refund.**



Increase Your Take-Home Pay With the EIC Advance Payment Option

Most workers get their EIC in one large check from the IRS after they file a tax return. You have another choice. Your employer can add part of your EIC to every paycheck. You get the rest of your credit after you file your return.

In 2004, you can qualify for an Advance EIC payment if you have at least one qualifying child and you expect your 2004 income to be less than \$30,338 (\$31,338 if you are married).

If you are not raising a child in your home, you are not eligible for advance payments. You are not eligible if you get paid day to day; if you have no Social Security and Medicare taxes withheld from your pay; or if you are

a self-employed worker who cannot advance your EIC to yourself.

In order to get the advance payment, just fill out a **W-5 form** called the "Earned Income Credit Advance Payment Certificate" and give part to your employer. You should be able to get the form from your employer. You can also get the form by calling **1-800-TAX-FORM** or you can download the form from the IRS website at www.irs.gov/formspubs/index.html. You can file a W-5 any time during the year, but you must file a new W-5 at the beginning of every year in order to continue getting advance payments.

You should **not** ask for advance payment if you hold more than one job; if you expect to get married during the year and both of you work; if you expect your income to increase a lot during the year; or if you have a spouse who also works, unless you both take advance payments. If something happens during the year that would change the amount of the EIC you should be getting, such as getting married or a big raise, you can ask your employer to stop putting advance payments in your paycheck. Just fill out another W-5 form and give it to your employer.

If you get advance payments during the year, you must file a tax return at the end of the year **and** include the total amount you received as an advance payment. You must also file Schedule EIC.

Child Tax Credit Benefits Many Workers Receiving the EIC



The Child Tax Credit is now worth up to \$1000 for each dependent child under age 17. Even families that earned too little to owe income tax can get the credit. This credit is different than the Child and Dependent Care Credit that helps workers who need day care in order to work.

To be eligible for the credit, you must be able to claim an exemption for a dependent child under age 17, have taxable earned income of above \$10,500, and have either a Social Security number or an Individual Taxpayer Identification Number. Immigrant workers with either type of number may be able to claim the credit. This credit does not affect your ability to take the EIC and will not reduce any benefits you can get from the EIC.

You must file Form 1040 or 1040A (**not** 1040EZ) in order to claim the credit. The credit is first used to reduce or eliminate any tax that you might owe. If any credit is left after your income tax has been eliminated, you then must file Form 8812 to find out if you qualify for a refund.



The Child and Dependent Care Credit

You may also qualify for another federal tax credit. The Child and Dependent Care Credit is a tax benefit that helps you pay for childcare you need in order to work or look for work. You can also take the credit if you must

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The views expressed by individual authors in this Newsletter are not necessarily shared by Pine Tree Legal Assistance or its staff

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 Mike Guare, Esq.
 Danny Mills
Paralegal
Editor: Cushing Pagon Samp

("Care Credit" continued from page 9)
 pay for the care of a spouse or an adult dependent who cannot care for him or herself.

You can claim this credit as well as the EIC and the Child Tax Credit. You should know, however, that if you earn too little to pay federal income tax, you *cannot* get this credit. This is different from the EIC. You can claim the EIC even if you are earning too little to pay income tax.

You can claim this credit if

✧ You paid over half the cost of keeping up your home (such as rent, food, etc), **and**

✧ You paid less for your dependent care than your 2003 income. If you are married and filing jointly, the income of the spouse with the lowest income must be more than the amount you paid for care. There are special rules for figuring the income of a spouse who was a full-time student or disabled.

The size of your credit will depend on the number of children or dependents needing care, the amount of your income and what you paid for care during the year.

In order to claim the credit, you must file Form 1040 or 1040A. Specific instructions on this Credit are included with the forms. If you need help, contact the VITA site nearest you. You may get free information about this Credit, or any other tax matter, by calling 1-800-TAX-1040.



Native American Veterans Association of Maine

This organization gives help to Native Americans on issues involving the VA health care system and veteran's funeral services. Contact **David Slagger**, NAVA Advocate, at 827-7776 or 548-2977.

The articles in this paper are meant to give information, **NOT to give legal advice**. No one should interpret any law without the help of an attorney who has been told all the facts.



We Want To Hear From You!

If you have comments, articles or ideas on how this Newsletter can be helpful to you, please let us know.

Please send articles or letters to:
 Wabanaki Legal News, Pine Tree Legal Assistance,
 Coe Building, 61 Main Street, Room 41, Bangor, ME
 04401. Or you can send e-mail to csamp@ptla.org.



INDEX of COMMUNITY RESOURCES



CRISIS (available 24 hours a day)



- ◆ Child Abuse/Neglect 1-800-452-1999
- ◆ Adult Abuse/Neglect 1-800-624-8404
- ◆ Domestic Violence:
 - Houlton Band of Maliseets 532-6401
 - Pleasant Point 853-2613
 - Indian Township 1-877-796-2020
 - Penobscot County 1-800-863-9909
 - Aroostook County 1-800-439-2323
 - Washington County 1-888-604-8692
- ◆ Infoline Emergency Social Services Referral: 1-800-204-2803
- ◆ Mental Crisis Hotline: 1-888-568-1112
- ◆ Poison Control Center: 1-800-442-6305
- ◆ Rape Crisis:
 - Penobscot County 1-800-310-0000
 - Aroostook County 1-800-550-3304
 - Washington County 1-800-228-2470
- ◆ Youth Crisis Stabilization: 1-800-499-9130



HOME HEATING ASSISTANCE

The Federal Fuel Assistance Program administered by the Maine State Housing Authority gives fuel assistance money to states to distribute to residents who need help with fuel bills. To find out if you qualify, call your nearest Community Action Agency or the Maine State Housing Authority (1-800-452-4668). The TTY number is 1-800-452-4603. www.mainehousing.org/homerepair.html
 The following Tribal Agencies offer emergency fuel assistance (LIHEAP) and related services:

Aroostook Band of Micmacs Social Services 764-3279 or
www.micmac-nsn.gov/html/social_services.html 1-800-585-3053
Penobscot Indian Nation Department of Human Services 796-2301
www.penobscotnation.org/DHS/index.htm
Indian Township Tribal Government 973-3630 or e-mail:
liheap@passamaquoddy.com
www.peopleofthedawn.com/contacts.htm

The following Community Action Programs also offer (LIHEAP) in your area:

Aroostook County 768-3053 or
www.acap.me.org/Energy_and_Housing_Services/energy_and_housing_services.html 1-800-585-3053
Washington/Hancock Counties 1-800-
www.whacap.org/services/heating_utilities.shtml 828-7544
Penquis/Bangor 973-3630
www.penquiscap.org/penquis.nsf/webpages/Fuel+Assistance



If you can't pay your heating bill, check to see if you can get onto a payment plan. Your electric utility offers special payment plans for low income customers during the winter.



LEGAL SERVICES (Other than Pine Tree):



Maine Lawyer Referral and Information Service:

For a \$20.00 fee, you can be referred to a lawyer in your area for a one half-hour consultation or review of your paperwork.

Telephone: 207-622-1460 or 1-800-860-1460

www.mainebar.org/lawyer_need.asp



Tel-Law:

Tel-Law has a number of different recorded messages to answer your basic questions about the law. It operates 24 hours a day. There is no fee other than the fact that it is a toll call outside the Augusta calling area.

Telephone: 207-622-1470

www.mainebar.org/public_tellaw.asp



Volunteer Lawyers Project:

If you meet the Pine Tree eligibility requirements, the Volunteer Lawyer's Project can give you legal advice or informational materials for free, or will refer you to a private lawyer who may handle your case without charge. Normal intake hours are M-Th 8:45-12:00 & 1:00-4:00 & Fr 8:45-12:00.

Telephone: 207-774-4348 or 1-800-442-4293

www.vlp.org/



Legal Services for the Elderly:

If you are age 60 or over, Legal Services for the Elderly can give you free legal advice or limited representation.

Telephone: 1-800-750-5353 or 207-623-1797

www.maineelse.org/



Penquis Law Project:

This group gives legal representation to low and moderate income residents of Penobscot and Piscataquis Counties in cases involving domestic relations, including divorce, protection from abuse, child support and visitation. Priority is given to people who are experiencing or have experienced domestic violence. Services are provided on a sliding fee scale. Pro-se clinics are offered for a fee of \$5 on an as-needed basis.

Telephone: 207-973-3671

www.penquiscap.org/penquis.nsf/webpages/Law+Project



Courthouse Assistance Projects:

If you meet the Pine Tree Legal Assistance income limits, a volunteer may be able to help you fill out court forms, serve forms, calculate child support, and answer questions. You may meet with a volunteer at the Bangor District Court once a month. To get dates, call Holly Jarvis at the Bangor District Court during normal business hours or go to the following website:

www.ptla.org/ptlasite/cliented/family/pclsa.htm

Telephone: 941-3040



University of Maine Student Legal Services:

If you are an undergraduate student at the University of Maine at Orono, you can get free or reduced cost civil legal services.

Telephone: 207-581-1789



Chief Advocate, Department of Corrections:

The Advocate refers civil cases of inmates of the State correctional system, including the Maine State Prison and Maine Correctional Center, to attorneys under contract with the Department of Corrections. Currently the contract is with the Cumberland Legal Aid Clinic of the University of Maine School of Law in Portland. This office also gives advocacy services for Maine State Prison inmates and works to resolve complaints informally.

Telephone: 207-287-4393



Patient Advocate, Department of Behavioral and Developmental Services:

The Advocate refers civil cases of patients at state mental institutions

or clients of the Department of Behavioral and Developmental Services to attorneys under contract with the Department. The Office also advocates generally for clients of BDS in all matters pertaining to rights and dignity.

www.state.me.us/bds/FactSheets/OfficeAdvocacy.html

Telephone:

Penobscot and Washington Counties:

207-941-4180

Aroostock County:

207-554-2115

People in the Bangor Area needing advocacy

207-941-4375

for mental retardation issues



SOCIAL SECURITY (State-wide)

1-800-772-1213

s3abaca.ssa.gov/pro/foi/foi-home.html

Bangor Area

990-4530; TTY: 941-8698

Presque Isle Area

764-3771; TTY: 764-2925



DISCRIMINATION:

Housing Discrimination

1-800-827-5005

www.hud.gov/complaints/housediscrim.cfm

Maine Human Rights Commission

624-6050

www.state.me.us/mhrc/index.shtml

ME Civil Liberties Union

774-5444

www.mclu.org/



DISABILITIES:

Disability Rights Center

1-800-452-1948

www.drcme.org/



CONSUMER RESOURCES:

✧ Maine Attorney General's Consumer Law Guide:

This Guide offers valuable and comprehensive information on many consumer topics. It can be viewed and downloaded online.

www.maine.gov/ag/?r=clg

✧ Consumer Mediation Service:

The Attorney General's Office gives this service free of charge. If you want to file a consumer complaint against a business call between 9:00 a.m. and 12:00 p.m. weekdays. Or write to: Attorney General's Consumer Information and Mediation Service, 6 State House Station, Augusta, ME 04333.

Telephone: 626-8849

www.state.me.us/ag/consumer/mediation.html

✧ Lemon Law Arbitration:

If you buy a car that has serious defects, the Attorney General's Lemon Law Arbitration Program can help you.

Telephone: 626-8800

www.state.me.us/ag/consumer/lemonlaw.html

✧ Utility Complaints:

The Consumer Assistance Division of the Maine Public Utilities Commission can help you settle problems with any utility in the State.

Telephone: 1-800-452-4699

www.state.me.us/mpuc/CAD/cad.htm

✧ Low Income Telephone Service Help:

If you qualify for Food Stamps, MaineCare, TANF, SSI or Fuel Assistance, call your local telephone company to see if you qualify for a reduction on your monthly telephone bill.

✧ Employment/Labor Information:

Career Centers: (www.mainecareercenter.com/)

Bangor

561-4050 or 1-888-828-0568

Calais

454-7551 or 1-800-543-0303

Houlton

532-5300 or 1-800-691-0033

Machias

255-1900 or 1-800-292-8929

Presque Isle

760-6300 or 1-800-635-0357

State Bureau of Labor Standards

624-6400

(wage or child labor complaints)

www.state.me.us/labor/bls/wagehour.htm

US Dept. of Labor (Wage and Hour Division)

www.dol.gov/esa/whd/

toll-free number: 1-866-4-USWAGE



Housing:

Maine State Housing Authority 1-800-452-4668
www.mainehousing.org/

Insurance:

Bureau of Insurance 624-8475
www.state.me.us/pfr/ins/ins_index.htm or 1-800-300-5000

Mobile Homes:

Manufactured Housing Board 624-8678
www.hud.gov/offices/hsg/sfh/mhs/mhssaa.cfm
 Manufactured Housing Association 623-2204
 (mediation for mobile home residents)
 Maine State Housing Authority 1-800-452-4668
 (if renting a mobile home) TTY 1-800-452-4603
www.mainehousing.org/rentalhousing.html
 US Department of Housing and Urban Development 1-800-347-3735
 (Manufactured Housing and construction standards)



COMMUNITY ACTION PROGRAMS (CAPS):

These agencies give information, outreach, job training, educational programs, day care, housing information and referral, fuel/energy assistance, insulation and furnace repair, surplus food, transportation and Emergency Crisis Intervention Program benefits. Not all services are given by all agencies.

Aroostook County Action Program

771 Main St. 91 Military St.
 Presque Isle, ME 04769 Houlton, ME 04730
 1-800-432-7881 532-5311
 or 764-3721
www.acap-me.org/





Penquis Community Action Program

262 Harlow Street,
 Bangor, ME 04401
 973-3500
www.penquiscap.org/



Washington-Hancock
 Community Agency
 2 Maple Street
 PO Box 280
 Milbridge, ME 04658-0280
 546-7544
www.whacap.org/

TRIBAL GOVERNMENT and AGENCIES

-  **Aroostook Band of Micmac Indians** 764-1972
www.micmac.org/
-  **Houlton Band of Maliseet Indians** 532-4273
www.maliseets.com/ (In State) 1-800-564-8524
 (Out of State) 1-800-545-8524
-  **Penobscot Indian Nation** 827-7776
www.penobscotnation.org/
-  **Passamaquoddy Tribe**
Indian Township www.peopleofthedawn.com/ 796-2301
Pleasant Point www.wabanaki.com/ 853-2600



PENOBSCOT TRIBAL COURT SYSTEM

Director of Tribal Court (George Tomer) 827-5639
Clerk of Courts (Sheila Sapiel) 827-5639
Tribal Prosecutor (C. Peter Bos) 827-5639
Probation Officer (George Tomer) 827-5639
Juvenile Officer (Janet Lewey) 827-5639
Regular Sessions: First Wednesday of the month.
Special Sessions as needed.



PASSAMAQUODDY TRIBAL COURT SYSTEM

www.wabanaki.com/tribal_court.htm

Indian Township Division:

Clerk of Courts (Jennifer Sockabasin) 796-5600
Probation Officer (Darlene Donahue) 796-5600
 W-F 7:30-4:00


Pleasant Point Division:

Clerk of Courts (Dorothy A. Barnes) 853-2600, ext 252
Probation Officer (Edward J. Nicholas) 853-2600, ext 249
 M-F 8:00-4:300

Regular Sessions: One Friday per month at each division. Special Sessions as needed.








OTHER TRIBAL AGENCIES

 **Maine Indian Tribal-State Commission** 622-4815



HEALTH SERVICES

-  **Penobscot Indian Health Center** 827-6101
-  **Maliseet Health Department** 532-2240
-  **Micmac Health Center** 1-800-750-1972
www.micmac.org/deptofsvcs.htm or 764-7219
-  **Pleasant Point Health Center** 853-0644 ext 290
Emergency Services 853-2551
www.wabanaki.com/health.htm or 853-4811
-  **Indian Township Health Center** 796-2321



DOMESTIC VIOLENCE

Native American Services:

-  **Peaceful Relations** 853-2600, ext 250
 (Pleasant Point): (office number)

www.wabanaki.com/Peaceful_Relations/default.htm

Hotline: (toll-free) 853-2613

Or call the Tribal Police: 853-2551

e-mail: nancy@wabanaki.com

Houlton Band of Maliseets:

During Office Hours (M-F 8-4): 532-6401

After hours: 694-1353

 **Indian Township Health Center** (Indian Township): 796-2321

(toll-free) 1-877-796-2020

Aroostook Band of Micmacs:

(Ask for Sarah Dewitt) 764-1972

Penobscot Indian Nation:

(Ask for Clarice Cheveree) 817-7491

Other Domestic Violence Services:

Penobscot County 947-0496

Spruce Run 1-800-863-9909

www.sprucerun.net/

Washington County

Peaceful Choices 1-888-604-8692

(Machias Hotline) 255-4785

www2.whacap.org/services/peaceful_choices.shtml

Aroostook County

Battered Women's Project 1-800-439-2323



MENTAL HEALTH AND SUBSTANCE ABUSE

Wabanaki Mental Health Association, NPC

990-0605 or 990-4346 or 941-8964

Fax#: 990-4784

Micmac Health Department

764-7219 or (toll-free) 1-800-750-1972

Wolipomawsu Program (Pleasant Point)

853-0644 or (emergency) 853-4811



HELPFUL NATIVE AMERICAN WEB SITES

Directory of Indian Legal Services Programs in the US:

www.judicare.org/nails.html

Native Web: www.nativeweb.org/NativeTech/Nipmuc/

Pine Tree Legal Assistance: www.ptla.org

Index of Native American Resources on the Internet:

www.hanksville.org/NAresources/

www.johnco.com/native/

Native Links:

Aboriginal Links: www.bloorstreet.com/300block/aborcan.htm

American Indian Internet Resources:

www.geocities.com/CapitolHill/Congress/5156/nativeresources.html

