

Tribal Domestic Violence Courts and Dockets: Foundational Elements of Domestic Violence



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Learning Objectives



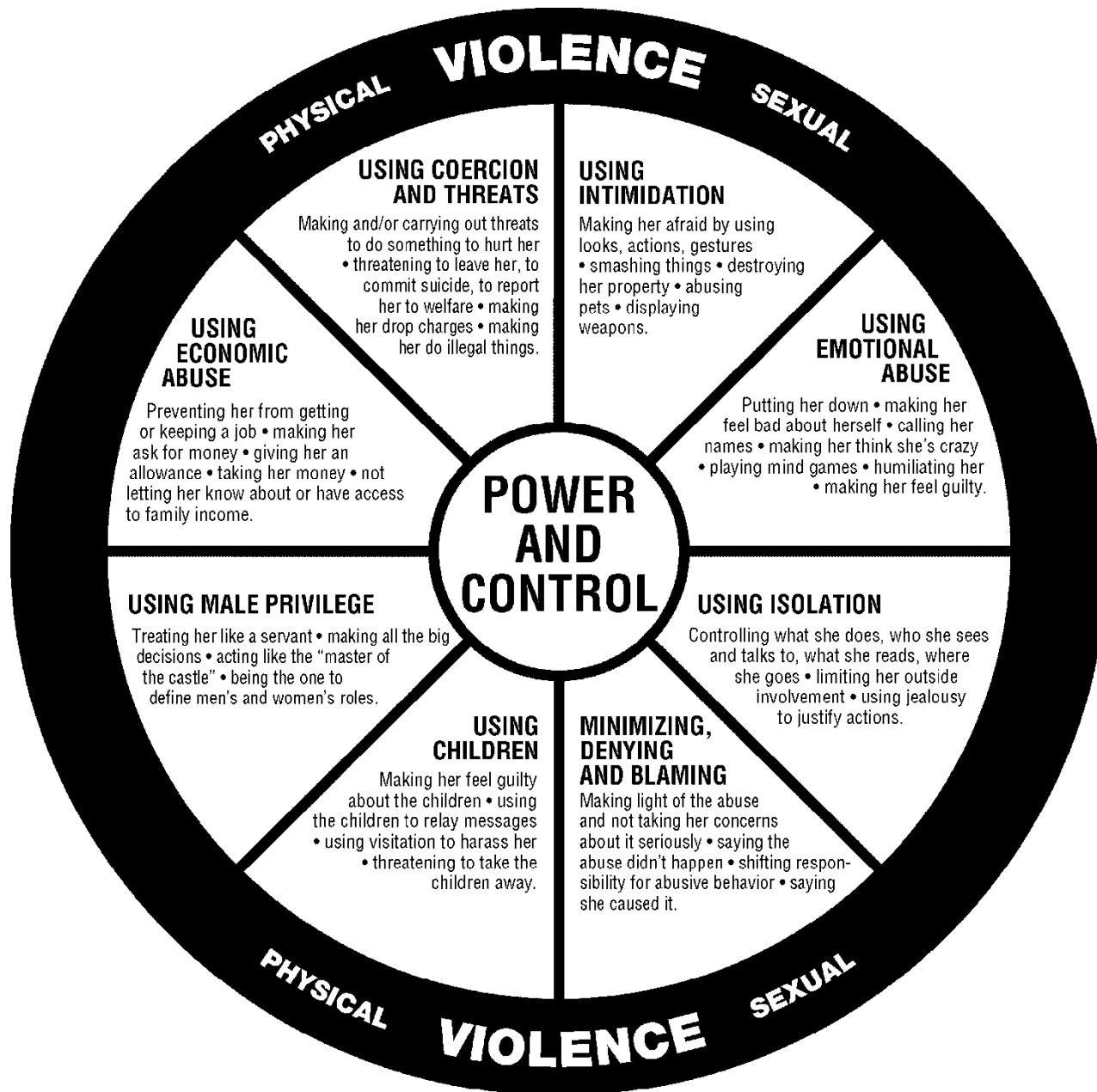
- Identify the perpetrator's core objective in domestic violence cases;
- Identify at least three key barriers American Indian/Alaska Natives (AI/AN) victims face in domestic violence cases in tribal communities;
- Identify at least three benefits of a domestic violence court/docket;
- Identify at least one basic jurisdictional issue that may affect the civil legal representation in tribal court; and
- Identify at least one basic jurisdictional issue that may affect the criminal legal representation in tribal court.

Domestic Violence Cases are Complex and Dangerous for American Indian/Alaska Native (AI/AN) Victims and Their Children



1. HOW IS DOMESTIC VIOLENCE LABELED?

2. WHAT IS PERPETRATOR'S CORE OBJECTIVE IN DOMESTIC VIOLENCE CASES?



Don't Be Fooled By Common Domestic Violence Myths



- Victims cause or provoke the violence. Some women deserve to be hit.
- Battering and batterer behavior minimized or tolerated.
- Men are abused as often as women.
- Victims are often questioned why they don't just leave the relationship.
- Alcohol, drug abuse, stress, and mental illness cause domestic violence.
- Domestic violence is a personal problem between a husband and a wife.
- Victim will get custody.

Domestic Violence in Dangerous for AI/AN Victims



- 56.1% of American Indian/Alaska Native (AI/AN) women have experienced sexual violence; 66.4 percent have experienced psychological aggression by an intimate partner; and 55.5 % have experienced physical violence by an intimate partner. *₁
 - AI/AN women suffer domestic violence and physical assaults at rates higher than any other ethnicity. *₂
 - According to the US Department of Justice, in at least 86 per cent of reported cases of rape or sexual assault against American Indian and Alaska Native women, survivors report that the perpetrators are non-Native men. *₃
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- *₁ - *National Institute of Justice Research Report: Violence Against American Indian and Alaska Native Women and Men*. U.S. Department of Justice (2016)
 - *₂ - *Brief for National Network to End Domestic Violence et al. as Amici Curiae Supporting Respondents at 2, Plains Commerce Bank v. Long Family Land and Cattle Co.*, 128 S. Ct. 2709 (2008) (No. 07-411); 2 Steven W Perry, *American Indians and Crime: A BJS Statistical Profile 1992-2002*, Bureau of Justice Statistics, US Department of Justice, Office of Justice Programs, December 2004.
 - *₃ - *Maze of Injustice, The Failure to Protect Indigenous Women from Sexual Assault in the USA*, Amnesty International (2007), page 4.

Domestic Violence is Dangerous for AI/AN Children



- National studies show that 49 to 70% of men who batter their companion also abuse their children. *
- Children who have been exposed to intimate partner violence in their families also are at high risk for severe and potentially lifelong problems with physical health, mental health, school and peer relationships, and disruptive behavior.
- Children who witness or live with intimate partner violence are often burdened by a sense of loss or by profound guilt because they believe that they should have somehow intervened or prevented the violence—or, tragically, that they actually caused the violence.
- *(Bureau of Justice Statistics, American Indians and Crime, 1992–2002, vi, available at: <http://www.bjs.gov/content/pub/pdf/aico2.pdf>, page 8.)

Domestic Violence is Dangerous for AI/AN Children



- Biological parents and parental figures perpetrate 32 to 39.7 percent of all sexual assaults against children. The vast majority of these sex offenders are fathers or father figures. *₁
 - Children who witness domestic violence in the home are 15 times more likely to be abused as compared to the national average. *₂
 - Various forms of ancillary crimes may be present in a domestic violence case such as physical assaults, sexual assaults, destruction of property, stalking, breaking and entering, child abuse, child neglect and child sexual assault.
-
- *₁ - Greenfield, L., Child Victimization: Violent Offenders and their Victims, Jointly published by the U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics and Office of Juvenile Justice and Delinquency Prevention, p.10, 1996.
 - *₂ - Volpe, J.S., 'Effects of Domestic Violence on Children and Adolescents: An Overview', The American Academy of Experts in Traumatic Stress, 1996.

A Victim May Suffer the Effects of Domestic Violence in a Variety of Ways



- Physically
- Difficulty concentrating
- Night terrors
- Partial amnesia
- Feeling lonely and isolated
- Suicidal
- Economic hurdles
- Fear of losing his/her children
- Loss of faith

A Victim May Suffer the Effects of Domestic Violence in a Variety of Ways



- Eating disorders
- Frequently absent from work
- Over-reaction to cues of danger
- Anxiety
- Depression
- Anger
- May make frequent visits to the Emergency Room

Effects That Domestic Violence May Have on AI/AN Children



- Every single day, a majority of AI/AN children are exposed to violence within the walls of their own homes. *₁
- 1/4 of Native Children Live in Poverty.
- Graduation rates are 17% lower than the national average.
- Twice as likely than any other demographic to die before the age of 24.
- 2.3% higher rate of exposure to trauma.
- Experience 2 times the rate of abuse and neglect.
- Violence, including intentional injuries homicide and suicide, account for 75% of the deaths of AI/AN youth age 12-20.
- PTSD rivals the rates of veterans returning from Afghanistan and Iraq.*₂

- *₁ - Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence: Ending Violence So Children Can Thrive, Executive Summary, November 2014 , page 12 found at https://www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2015/03/23/ending_violence_so_children_can_thrive.pdf.
- *₂ - https://www.washingtonpost.com/world/national-security/the-hard-lives--and-high-suicide-rate--of-native-american-children/2014/03/09/6e0ad9b2-9f03-11e3-b8d894577ff66b28_story.html?utm_term=.cd99ba35d9cc

Why Are Domestic Violence Rates So High For AI/AN Victims?



Precolonization



- Strong traditional customs, values and traditions.
- Tribal nations had system in place to address any acts of violence.
- Such acts of violence addressed swiftly and appropriately.
- Violence of any type, especially against women and children, was intolerable.
- Mother-child bond was sacred and was protected.
- Violence, as with any trauma experienced by tribal nation, was addressed collectively and in a coordinated community manner.

Contemporary Issues and Historic Trauma



- Diminishment in the status of women
- Destruction and disease
- Boarding Schools
- Learned violence
- Limited jurisdiction

Why the Victim May Return to the Perpetrator or Refuse to Leave the Relationship



- Holding the family together- may be a cultural norm
- Love
- Feels he/she is to blame
- Low self-esteem
- Feels he/she is the only one who can save the perpetrator
- Finances
- Fear of losing the children
- May have cultural values that discourage disclosure of the domestic violence
- May have cultural restrictions on disclosures of sexual abuse

Trauma Informed Response



- Current trauma of domestic violence trigger past abuse and historic trauma.
- Addressing victim's whole person needs with emphasis on safety needs – Mental/Intellectual; Emotional; Physical; Spiritual.
- Victim empowerment is critical.
- Requires service providers understand trauma of domestic violence and avoid re-traumatizing victim.
- Requires education for all segments of the community.

Keys to Effectively Addressing Domestic Violence in Tribal Communities



- Recognize the high rate of domestic violence.
- Safety needs seen as a priority for victims and their children.
- Honor and strengthen sacred bond between mother and child.
- Need for the strictest confidentiality policies.
- Victims may not trust responders due to past negative experiences or living in a small tight knit community.
- Lack of resources to handle all domestic violence cases comprehensively.
- Need for coordinated community responses and collaboration.
- Need to hold offenders accountable and stop minimizing the behavior.

Domestic Violence Cases Are Complex: Trauma of Domestic Violence



- Victim Impact - Response is different for each person.
- Whole person impact – Mental/Physical/Emotional/Spiritual.
- Children who witness violence may be impacted in a variety of ways.
- Community impact.
- Victim and children require trauma informed response.

Examples of Civil and Criminal Legal Relief A Victim May Need in Tribal Court



- *Civil Relief:*
 - protection order
 - employment law
 - housing law
 - debtor creditor
 - family law
 - child welfare
- *Criminal (when perpetrator is charged with a domestic violence crime):*
 - criminal protection order
 - asserting victims' rights
 - immunity provisions

Analyzing Tribal Jurisdiction For Civil and Criminal Jurisdiction



- Backdrop-tribes have inherent sovereign power to exercise jurisdiction over all persons within a tribe's Indian country.
- Step 1: Look to tribal Constitution and Tribal Code to determine whether the tribe has placed restrictions on what types of crimes the tribal court may address.
- Step 2: Congress has placed some restrictions on a tribe's inherent sovereign powers to exercise jurisdiction over *non-Indians* committing crimes in Indian country.
- Step 3: If Congress has place restrictions on tribal sovereignty, have those restrictions been relaxed?

TRIBAL CIVIL JURISDICTION INVOLVING TRIBAL MEMBERS



Step 1



- Review Tribal Constitution and Code to identify any barriers to exercising civil jurisdiction including jurisdiction over non-members. If none, move to Step 2.

Step 2



- Step 2: Has Congress Restricted the Tribe's Sovereign Power to Exercise Jurisdiction Over Civil Matters? *Yes.*
- *In matters arising outside of Indian Country involving non-members, the federal restrictions on tribal civil jurisdiction may still apply. **Two U.S. Supreme Court cases held that tribes have limited powers over matters involving non-members on non-Indian lands.***

Restriction: Civil Jurisdiction Over Non-members on Non-Indian Fee Land in Indian country – Step 1



- *Montana v. United States*, 450 U.S. 544 (1981) and *Strate v. A-1 Contractors*, 5520 U.S. 438 (1997) resulted in a test to determine whether a tribal court has jurisdiction over non-members in civil matters.

Civil Jurisdiction Over Non-Indians on Non-Indian Fee Land in Indian Country –Step 1



- The Montana test requires the tribal court to find that: 1) the parties entered into a consensual relationship with the tribe or its members through commercial dealing, contracts, leases or “other arrangements” or 2) the conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe. If neither of the two factors listed in the Montana test are present, the tribal courts may not exercise civil jurisdiction over non-members on non-Indian lands.

Step 3



- If restrictions have been placed on tribal sovereignty, has Congress relaxed those restrictions? *Maybe.*

Violence Against Women Act 2013 Clarified Tribal Jurisdiction Regarding Protection Orders –Step 3



- “(e) Tribal Court Jurisdiction.—For purposes of this section, a court of an Indian tribe shall have full *civil* jurisdiction to **issue and** enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, *in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.*”

18 USC 2265

TRIBAL CRIMINAL JURISDICTION



Step 1



- Review Tribal Constitution and Code to determine if the tribe has placed restrictions on criminal jurisdiction. If no, move to step 2.

Step 2



- Has Congress placed any restrictions on a tribe's sovereign powers to exercise criminal jurisdiction?
- *Yes. The U.S. Supreme Court restricted a tribe's power to exercise criminal jurisdiction over non-Indians.*
- *Yes. The U.S. Supreme Court restricted a tribe's power to sentence defendants in criminal court pursuant to the Indian Civil Rights Act (ICRA).*

Step 3



- Has Congress Loosened the Restriction on a Tribe's Inherent Sovereign Powers To Exercise Criminal Jurisdiction Over non-Indians Committing Certain Crimes within the Tribe's Indian Country?
- *Yes- if tribes meet certain federal mandates tribes can prosecute non-Indians for committing certain crimes in Indian Country. VAWA 2013 section 904.*

VAWA 2013: Relaxes a tribe's criminal jurisdiction over non-Indians committing certain crimes in Indian country



- [VAWA 2013](#): Recognizes tribal inherent criminal jurisdiction over *non-Indians* who commit acts of domestic violence, dating violence and violations of protection orders for tribes that meet the requirements of Section 904 of [VAWA 2013](#).

Indian Civil Rights Act (ICRA): Relaxing a tribal court's criminal sentencing authority if a tribe meets certain federal mandates



- Congress also loosened restrictions placed on tribal sovereignty by amending ICRA to once again allow tribal courts to exercise enhanced sentencing in criminal cases if the tribe meets certain federal mandates.

Congress Loosened the Criminal Sentencing Restrictions Placed on a Tribe's Inherent Sovereignty By Federal Statutes If Tribe Can Meet Federal Mandates



- The Indian Civil Rights Act (25 U.S.C. [§ 1301](#)) provides that tribal courts cannot “impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year or a fine of \$5,000 or both.”
- [The Tribal Law and Order Act](#) (TLOA) (25 U.S.C. § 1302) amended ICRA, thus increasing tribal court authority to incarcerate for up to three years and/or fine up to \$15,000 for one offense for tribes that meet federal mandates.
- For tribes not meeting the mandates of TLOA the one year or fine of \$5,000 or both will remain in place.

Specialized Tribal DV Courts/ Tribal DV Dockets



**UTILIZING THE POWER OF TRIBAL
SOVEREIGNTY TO EFFECTIVELY ADDRESS
THE SAFETY OF THE VICTIM AND HIS/HER
CHILDREN AND HOLD PERPETRATORS
ACCOUNTABLE FOR DV BEHAVIORS**

Domestic Violence Courts



STRENGTHENS TRIBAL SOVEREIGN POWERS

- May be civil and/or criminal.
- Allows for incorporation of unique tribal customs/traditions regarding healthy families and communities in all phases of a case.
- Allows specialized domestic violence tribal court to implement policies, protocols and trainings for personnel that will come into contact with the family.
- Builds strong partner relationships among service partners.

Domestic Violence Courts



PUTS FOCUS ON VICTIM SAFETY BY:

- Protocols to keep victims informed.
- Protocols to link victim with advocate for safety planning.
- May empower tribal victim service providers.

PUTS FOCUS ON COURT SAFETY:

- Protocols to create safe places within and outside the courthouse.
- Providing specially trained court/law enforcement personnel.
- Safety-driven scheduling of dockets.

Domestic Violence Courts



HOLDING BATTERERS ACCOUNTABLE

- Specially trained court/law enforcement personnel.
- Builds strong relationships with multiple service providers.
- May allow cross-pollination of batterer records to promote more comprehensive monitoring.
- Allows specialized court to determine culturally appropriate batterer programs.
- Focus post-adjudication on batterer accountability and change.
- Built in review hearings.

Domestic Violence Courts



PROMOTING COORDINATED TRIBAL COMMUNITY RESPONSE TO DOMESTIC VIOLENCE

- May create policy uniformity among various agencies working with the victim.
- May provide opportunity for regular meetings among service providers.
- Creates environment in which system change can be achieved.



A SPECIALIZED DOMESTIC VIOLENCE DOCKET



Domestic Violence Dockets



- May be civil and/or criminal.
- Provides some measure of continuity for victims and families.
- Specialized docket days that focus on victim safety and batterer accountability.
- May provide specialized judges and court personnel.
- May provide specialized law enforcement.
- May enhance relationships with service providers.

Backdrop for analysis of tribal civil/criminal jurisdiction



- Inherent Sovereign Authority: Indian tribes - as sovereign nations - historically have inherent jurisdictional power over everything occurring within their Indian country.
- Tribal courts are courts of general jurisdiction which continue to have broad jurisdiction.
- Analysis of tribal jurisdiction *should begin with this sovereign authority and determine whether there has been any way in which this broad sovereign authority had been reduced BY CONGRESS.*

RESOURCES

www.home.tlpi.org



**Tribal Legal Code Resource:
Tribal Laws Implementing TLOA Enhanced
Sentencing and VAWA Enhanced Jurisdiction**

*Guide for Drafting or Revising
Tribal Laws to Implement the Tribal Law and Order Act (TLOA)
Enhanced Sentencing and the Violence Against Women Act
Reauthorization of 2013 (VAWA 2013)
Special Domestic Violence Criminal Jurisdiction*

Updated March 2016

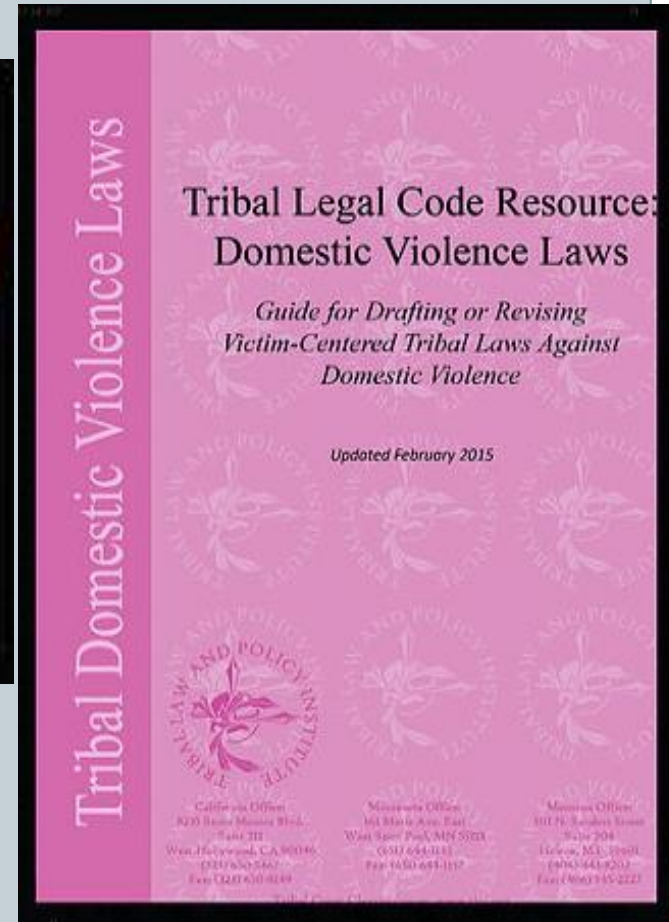
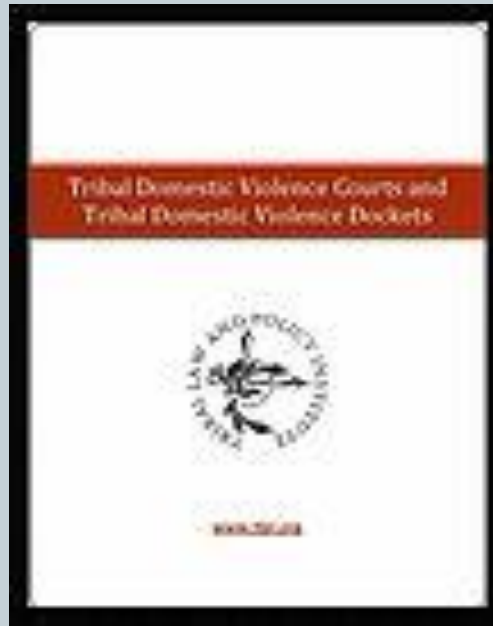


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Tribal Domestic Violence Courts and Dockets Fact Sheets



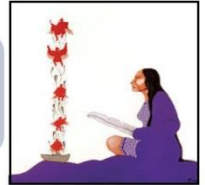
TRIBAL DOMESTIC VIOLENCE *COURTS*

Fact Sheet



TRIBAL DOMESTIC VIOLENCE *DOCKETS*

Fact Sheet



Tribal Domestic Violence Courts

Tribal Domestic Violence Dockets

WHAT IS A DOMESTIC VIOLENCE COURT?

Tribal domestic violence courts are specialized courts with targeted caseloads consisting of domestic violence cases. Tribal domestic violence courts are comprised of personnel who are well trained in the dynamics of domestic violence and committed to working collaboratively among various victim service providers/systems to meet the needs of the family. Additionally, these courts focus on victim safety and batterer accountability by closely monitoring batterer compliance with court orders. There are various domestic violence courts models including:

(1) DOMESTIC VIOLENCE COURT MODEL COVERING BOTH CIVIL AND CRIMINAL CASES

- Domestic violence judge/court handling **both civil and criminal cases**
- Criminal domestic violence cases occurring in Indian country such as criminal protection orders; misdemeanor cases involving Indian defendants; felony cases involving Indian defendants if the tribe has implemented enhanced sentencing under the Tribal Law and Order Act; and criminal acts of domestic violence, dating violence or protection order violations involving non-Indian defendants and Indian victims where tribe has implemented special domestic violence criminal jurisdiction under the Violence Against Women Reauthorization Act of 2013;
- Civil cases where domestic violence is present including civil protection orders, divorce, custody, child support, paternity, visitation, child protective cases, guardianships and Indian Child Welfare Act (ICWA) matters.
- Child protective and juvenile justice matters if related to domestic violence.

(2) DOMESTIC VIOLENCE CRIMINAL COURT MODEL

- Criminal domestic violence judge/court handling **only criminal cases**
- Criminal domestic violence cases occurring in Indian country such as criminal protection orders; misdemeanor cases involving Indian defendants; felony cases involving Indian defendants if the tribe has implemented enhanced sentencing under the Tribal Law and Order Act; and criminal acts of domestic violence, dating violence or protection order violations involving non-Indian defendants and Indian victims where tribe has implemented special domestic violence criminal jurisdiction under the Violence Against Women Reauthorization Act of 2013.

(3) DOMESTIC VIOLENCE CIVIL COURT MODEL

- Civil/family domestic violence judge/court handling **only civil cases**
- Civil cases where domestic violence is present including civil protection orders, divorce, custody, child support, paternity, visitation, child protective cases, guardianships and Indian Child Welfare Act (ICWA) matters.

Resources and Help for Victims

- StrongHearts Native Helpline 1-877-7NATIVE or 1-877-762-8483
- National Domestic Violence Hotline 1-800-799-SAFE (7223) 1-800-787-3224 (TTY)
- The Rape Abuse Incest National Network 1-800-656-4673
- Alliance of Tribal Coalitions Against Violence (ATCEV) 1-888-577-0940
- National Indigenous Women's Resource Center www.NIWRC.org
- Local program/shelter
- Call 911

For more information, please contact:

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WHAT IS A DOMESTIC VIOLENCE DOCKET?

Tribal domestic violence docket days are characterized by setting aside specific days of the tribal court's docket to address cases involving domestic violence. Devoting certain days of the docket to domestic violence cases can provide continuity for the victim, and allow the tribal court to address related civil and criminal matters on the same day. It can also allow the court to offer enhanced security, advocacy services, and child care for domestic violence victims.

SPECIFIC DOCKET DAYS DEVOTED TO DOMESTIC VIOLENCE CASES CAN POTENTIALLY PROVIDE:

- Early identification of the domestic violence and safety issues
- Early access to victim services
- Judges and other service providers who focus on victim safety and batterer accountability including close monitoring of compliance with court orders
- Continuity for the victim
- Ability to address related civil and criminal matters on the same day
- Ability to enhance security, advocacy services, and child care for domestic violence victims on specialized docket days

WHY DOMESTIC DOCKETS ARE NEEDED

Domestic violence cases require judges, court personnel and all related service providers to handle the complicated dynamics of abuse such as:

- ♦ The risk of future violence to the victim (and children)
- ♦ Issues of perpetrator accountability; and
- ♦ Patterns of behavior which may include the victim's fear, which may drive a victim's behaviors such as filing a case and then demonstrating a reluctance to testify or participate in the case ;
- ♦ The need to update lethality assessments in order to attempt to correlate the perpetrator's changing behavior and a victim's risk of death.

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TLPI Tribal Domestic Violence Courts Dockets Resources Webpage - www.TLPI.org/lists/dvcourts.html

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Violence Against Women Act – Title IX: Safety for Indian Women

Website Resource for Implementing the Tribal Provisions of VAWA: www.ncsl.org/Tribal-vaaw

Following Tribes' Pilot Project applications were granted by the Department of Justice on February 6, 2014:

Federated Tribes of the Umatilla Indian Reservation (in Oregon)

- [Letter to Umatilla](#)
- [Application Questionnaire](#)
- [Court Directive](#)
- [Court Code](#)
- [Criminal Code](#)
- [SB412 Implementation Code \(powers of law enforcement officers\)](#)
- [Sex Offender Registration Code](#)
- [Rules of Evidence](#)

Yavapai Yaqui Tribe of Arizona

- [Letter to Pascua Yaqui](#)
- [Application Questionnaire](#)

Chippewa Tribes of Washington

- [Letter to Tulalip](#)
- [Application Questionnaire](#)
- [Exhibits](#)

Violence Against Women Act (VAWA) was reauthorized for the third time on March 7, 2013. ([Violence Against Women Reauthorization Act of 2013, S. 47, 113th Congress, 2013-2015.](#)) VAWA of 2013 includes [Title IX—Safety for Indian Women](#).

Among its provisions, Title IX of VAWA of 2013 authorized "special domestic violence criminal jurisdiction." This jurisdiction authorizes tribes to criminally prosecute non-Indians for the crimes of domestic violence, dating violence, and the violation of protection orders. However, in order for tribes to utilize this criminal jurisdiction, tribes must provide certain enumerated due process protections, including most of the protections required in the Tribal Law and Order Act.

- [Introduction to Violence Against Women Act Reauthorization – Title IX](#)
- [Special Domestic Violence Criminal Jurisdiction](#)
- [Law Takes Effect March 2015](#)
- [Due Process Protection Requirements](#)
- [Special Rule for Alaska](#)
- [Applicability of Other Federal Laws](#)
- [Constitutionality of Title IX](#)
- [Past VAWA Acts](#)

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Federal Agencies

- [Administration for Children and Families \(ACF\)](#)
- [Administration for Native Americans \(ANA\)](#)
- [American Indian Environmental Office](#)
- [BIA Office of Justice Services](#)
- [Bureau of Indian Affairs \(BIA\)](#)
- [Bureau of Indian Education](#)
- [Bureau of Justice Assistance \(BJA\)](#)
- [HUD's Office of Native American Programs \(ONAP\)](#)
- [Indian Law and Order Commission \(ILOC\)](#)
- [Office for Victims of Crime](#)



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Due Process Protections Required by TLOA and/or VAWA

TLOA and VAWA Due Process Requirements		TLOA	VAWA
1.	Defendants are provided with effective assistance of counsel equal to at least that guaranteed in the U.S. Constitution.*	✓	✓
2.	Tribal government provides, at their expense, to an indigent defendant a defense attorney licensed to practice by any jurisdiction in the United States.*	✓	✓
3.	Defense attorney is licensed by a jurisdiction that applies appropriate licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.*	✓	✓
4.	Judges presiding over criminal proceedings subject to enhanced sentencing/non-Indian defendants have sufficient legal training to preside over criminal trials.*	✓	✓
5.	Any judge presiding over criminal proceedings subject to enhanced sentencing/non-Indian defendants are licensed to practice law by any jurisdiction in the United States.*	✓	✓

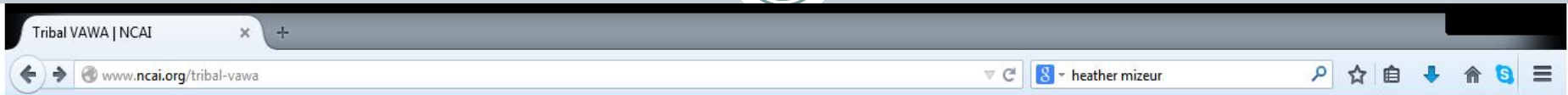
*Note: These due process protections are required under TLOA. But, they are only required under VAWA if a term of imprisonment of any length may be imposed.

TLOA and VAWA Due Process Requirements		TLOA	VAWA
6.	The tribe's criminal law, rules of evidence, and rules of criminal procedure are made available to the public prior to charging the defendant.*	✓	✓
7.	Tribal court maintains a record of the criminal proceeding, including an audio or other recording.*	✓	✓
8.	Any defendant sentenced to greater than 1-year imprisonment to be served in a tribal facility, that facility must pass the BIA jail standards for long-term incarceration.	✓	
9.	Tribal court provides the defendant the right to a trial by an impartial jury.		✓
10.	Tribal court ensures that the jury pool reflects a fair cross section of the community.		✓
11.	Tribal court ensures that juries are drawn from sources that do not systematically exclude any distinctive group in the community, including non-Indians.		✓

*Note: These due process protections are required under TLOA. But, they are only required under VAWA if a term of imprisonment of any length may be imposed.

TLOA and VAWA Due Process Requirements		TLOA	VAWA
12.	Tribal court ensures that anyone detained under the special domestic violence criminal jurisdiction is “timely notified” of his/her rights and responsibilities.		
13.	Tribal court ensures that a defendant is notified of their right to file “a petition for a writ of <i>habeas corpus</i> in a court of the United States.”		
14.	Tribal court ensures that “all other rights whose protection is necessary under the Constitution of the United States in order for Congress to recognize and affirm the inherent power of the participating tribe to exercise special domestic violence criminal jurisdiction over the defendant” are provided.		
15.	Tribal court ensures that “all applicable rights under the special domestic violence criminal jurisdiction provisions” are provided.		

www.ncai.org/tribal-vaawa



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Tribal Implementation of VAWA

Resource Center for Implementing Tribal Provisions of the Violence Against Women Act (VAWA)



Resources to help you get started on implementing the Violence Against Women Act's tribal

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