



Tribal Domestic Violence Courts and Dockets: Core values, custom, tradition and multi-disciplinary practices

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Learning Objectives

- Compare and contrast a domestic violence docket and a domestic violence court;
- Explain the variances in the history of domestic violence courts/dockets;
- Identify core values of domestic violence courts/dockets;
- Understand the role of tribal custom and tradition in developing core values of a domestic violence court/docket;
- Understand the role of tribal custom and tradition in developing court/docket structure;
- Identify several benefits of a domestic violence court;
- Identify the Multi- Disciplinary Lens – holistic approach to victim safety; and
- Identify the Multi-Disciplinary Lens – holistic approach to batterer accountability.



Domestic Violence Docket vs. Domestic Violence Court

DOMESTIC VIOLENCE DOCKET:

Characterized by setting aside specific days of the tribal court docket to address domestic violence cases

Provides some continuity for victims

Allows court to address domestic violence civil/criminal cases on the same day

Allows for enhanced security

Allows for victim advocacy services onsite

May provide child care for victims



Domestic Violence Court vs. Domestic Violence Docket

DOMESTIC VIOLENCE COURTS:

Specialized courts with targeted caseloads consisting of domestic violence cases

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

Focus on victim safety and batterer accountability by closely monitoring batterer compliance with court orders



History of Domestic Violence Courts

Domestic violence movement over the past three decades included: mandatory arrests, protection order courts, victim advocates establishing shelters, victim services and community programs for victims.

Since the 1990's domestic violence courts have grown along with other problem solving courts (drug courts, mental health courts, community courts). These problem solving courts address different issues but typically focus on the defendant and seek to improve outcomes for the defendant by providing services/treatments for the underlying non-violent issues.

Domestic violence courts do not reflect all of these principles. Domestic violence courts have a responsibility to the victim. While the courts must address behaviors of the batterer-this issue is controversial among victim advocates. Some advocates believe that domestic violence reflects society's attitudes and thus is not a treatable issue.

Further, domestic violence often includes violent crimes.

Domestic violence courts across the United States differ but do share common core values.



Core Values Guiding a Domestic Violence Court/Docket

VICTIM SAFETY/VICTIM DRIVEN:

Early screening/identification of domestic violence

Unlimited access to victim advocates (cornerstone of effectively addressing domestic violence)

Early supply of social services for victim and children - wrap around services, holistically geared and include tribal programs like housing (displaced battered women need decent affordable housing and tribes should triage housing needs of battered women as priority, health (battered women who need medical services for long term impact of physical injuries such as arthritis from broken bones, strangulation effects, dental work, etc.), etc.

Keep victim informed

Schedule cases punctually

Provide safe places for victim in the courthouse



Core Values Guiding a Domestic Violence Court/Docket

OFFENDER ACCOUNTABILITY:

One permanent judge

Fixed prosecutorial team

Fixed law enforcement team

Continuous monitoring of the batterer

Be creative in monitoring techniques

Create separate criminal dockets if overflow



Core Values Guiding a Domestic Violence Court/Docket

MULTI-DISCIPLINARY SYSTEMIC RESPONSE TO DOMESTIC VIOLENCE:

JUDICIAL LEADERSHIP: Single presiding judge to hear civil (protection orders, divorce, custody) and related criminal cases for one family

STRONG, COLLABORATIVE PARTNERSHIPS: advocates, prosecution, law enforcement, social services, child protection, schools, healthcare workers.... scheduling regular meetings with partners.

EDUCATION AND TRAINING FOR ALL:

Regular and on-going trainings for all domestic violence court partners and tribal community



Role of Tribal Custom and Tradition in Developing Core Values

Core value of domestic violence court /docket is to provide victims of domestic violence with safety and protection.

That violence against family members is not in keeping with tribal customs and traditions.

Victims of domestic violence deserve tribally based, fair, compassionate and prompt responses.

Domestic violence threatens the political integrity of the tribe as it is any tribal nations duty to protect the health and well being of its citizens.

Tribal nations have the power to utilize criminal and civil justice systems in setting standards of behavior within the family that are consistent with tribal custom and tradition and the tribe may utilize tribal authority to impose sanctions upon offenders for behaviors that violate custom and traditions.



Role of Tribal Custom and Tradition in Developing Court/Docket Structure

The safety and well-being of American Indian/Alaska Native victims of domestic violence and their children is critical to the strength and stability of tribes.

Tribal victims often prefer to seek help from and utilize tribal systems over state/federal systems due to mistrust issues fueled by years of oppression and historical trauma.

To protect the mother-child bond.



Benefits of a Domestic Violence Court

Informed judicial decision-making on issues involving the family while incorporating tribal customs and traditions as appropriate.

The judge is trained in the dynamics of domestic violence and the complex criminal and/or civil jurisdictional laws in Indian country

Consistency by having a single presiding judge trained in the dynamics of domestic violence and tribal law

Court judge/staff trained on domestic violence issues

Victim safety through the use of a tribal victim advocate, courtroom safety protocols and utilizing the important role of communication with other courts

Multi-disciplinary linkage to service providers to address the needs of family members in a manner appropriate for each tribal community



Benefits of a Domestic Violence Court

Improved collaboration among service providers in a manner appropriate for each tribal community.

Improved community response to domestic violence by linking a family court with criminal justice personnel, tribal domestic violence advocates and other service providers

Batterer accountability by ensuring ongoing monitoring of compliance

Early identification of the domestic violence and safety issues, early access to victim services including integration of tribal custom/traditions regarding healthy, safe families

Non-rotating personnel who are well trained in the dynamics of domestic violence and working collaboratively to meet the needs of the family

Stronger working relationships between systems such as law enforcement, victim advocates, child welfare and other service providers serving tribal families experiencing domestic violence.



Effectively Addressing Domestic Violence through the Multi- Disciplinary Approach

A Multi-disciplinary approach underscores in the importance of coordination, collaboration and interactions between all systems addressing the victim/children's needs.

Provides for a very carefully tailored sharing of information among systemic silos.

Addresses confidentiality and privileged communications issues in a safe manner.

Promotes the establishment of a collaborative network of courts, civil and criminal justice agencies, local victim service organizations, and social service programs working together to create policies and procedures to increase the safety of victims of domestic violence.



Specific Roles of the Multi-Disciplinary Approach

JUDGES:

Provide leadership

Correctly apply tribal statutory requirements

Draft legal documents (protection orders) clearly to invoke tribal jurisdiction and Violence Against Women Act (VAWA) full faith and credit provisions as well as firearms protections

Participate and collaborate in establishing safety protocols for the courtroom and court personnel

Enforce protection order violations

Draft legal documents that enhance victim safety

Draft legal documents in a way that would invoke federal prosecution for habitual offenders

Draft legal documents that reflect the severity of the crime as the crime would compare with state or federal crimes (for later state or federal sentencing enhancement)

Be responsible for court accountability

Ongoing and consistent training regarding trauma informed victim service delivery and safety issues



Specific Roles of the Multi-Disciplinary Approach

COURT PERSONNEL:

Understand the power and control dynamic and victim safety issues in domestic violence cases

Handle client information and legal documents containing client information in a safe manner

Participate and collaborate in courtroom safety and court staff safety plans

Be responsible for the court personnel segment of the domestic violence court

Ongoing and consistent training regarding trauma informed victim service delivery and safety issues



Specific Roles of the Multi-Disciplinary Approach

TRIBAL PROSECUTORS:

Understand the power and control in domestic violence cases

Understand domestic violence victim safety issues

Understand and enforce victim rights

Prosecute protection order violations

Draft criminal no-contact orders to function as enforceable protection orders

Be responsible for the tribal prosecutor's role in the domestic violence court

Ongoing and consistent training regarding trauma informed victim service delivery and safety issues



Specific Roles of the Multi-Disciplinary Approach

LAW ENFORCEMENT:

Understand that as a first responder, law enforcement sets the tone for the victim's participation in the criminal justice system

Understand the power and control dynamics and victim safety issues present in domestic violence cases

Understand the crucial role of a victim advocate in a domestic violence case

Understand the jurisdictional maze of criminal jurisdiction in Indian country

Understand and enforce tribal domestic violence statutes



Specific Roles of the Multi-Disciplinary Approach

LAW ENFORCEMENT:

Understand the importance of entering tribal protection orders in the National Crime Information Center (NCIC) and other crime database systems

Understand the importance of regular on-going training in investigating domestic violence cases

Work collaboratively with other partners in the domestic violence court

Be responsible for the law enforcement segment of the domestic violence court

Ongoing and consistent training regarding trauma informed victim service delivery and safety issues



Specific Roles of the Multi-Disciplinary Approach

DEFENSE ATTORNEYS:

Understand the power and control dynamics of domestic violence

Understand the victim safety issues in domestic violence cases

Promote batterer compliance with court orders by counseling on what constitutes a violation of a protection order and the criminal consequences of a violation

Promote batterer compliance on firearms prohibitions (if applicable) to the defendant

Provide input on systemic weaknesses with respect to a defendant's due process rights

Be accountable for the defense bar of the domestic violence court

Ongoing and consistent training regarding trauma informed victim service delivery and safety issues



Specific Roles of the Multi-Disciplinary Approach

TRIBAL VICTIM ADVOCATES:

Understand the power and control dynamics of domestic violence and victim safety issues

Safety plan for the victim and children

Coordinate available resources and services

Be a community educator on the dynamics and dangers of domestic violence

Be a community educator on the lethality measures in domestic violence cases

Assist with development of safety plans for all domestic violence court partners

Work collaboratively with domestic violence court partners

Must be accountable for their work to all of the collaborative partners and the domestic violence court

Ongoing and consistent training regarding trauma informed victim service delivery and safety issues



Specific Roles of the Multi-Disciplinary Approach

OTHER VICTIM SERVICE PROVIDERS:

Identify collaborators (e.g health care, counseling, dentist, tribal public transportation, etc.)

Understand the power and control dynamics of domestic violence

Understand the victim safety issues in domestic violence cases

Be accountable to the domestic violence court for your discipline

Ongoing and consistent training regarding trauma informed victim service delivery and safety issues



Potential Challenges of a Domestic Violence Court

DO NOT PLACE THE BURDEN FOR REPORTING VIOLATIONS OF THE BATTERER'S ACTIONS SQUARELY ON THE VICTIM

DO NOT implement a domestic violence court if systemic collaborators refuse to work collaboratively regarding all Core Values

RECOGNIZE that not all batterers will be able to safely reunify with the family

RECOGNIZE that domestic violence cases are complex and dangerous



Protocol Development

Establishes a set of policies, procedures and agreements between collaborators that share a common goal (victim safety and batterer accountability)

Explains the roles and responsibilities of each partner

Functions as a roadmap for each separate discipline to arrive at the same goal in a trauma-informed victim centered manner

Carefully considers communication, confidentiality and privileged information and navigates information sharing in ways that promote victim safety

Provides components for regular on-going trainings

Provides components for monitoring and modification of protocols when partners agree



Protocol Development

Suggestion:

Utilize the 8 step process-

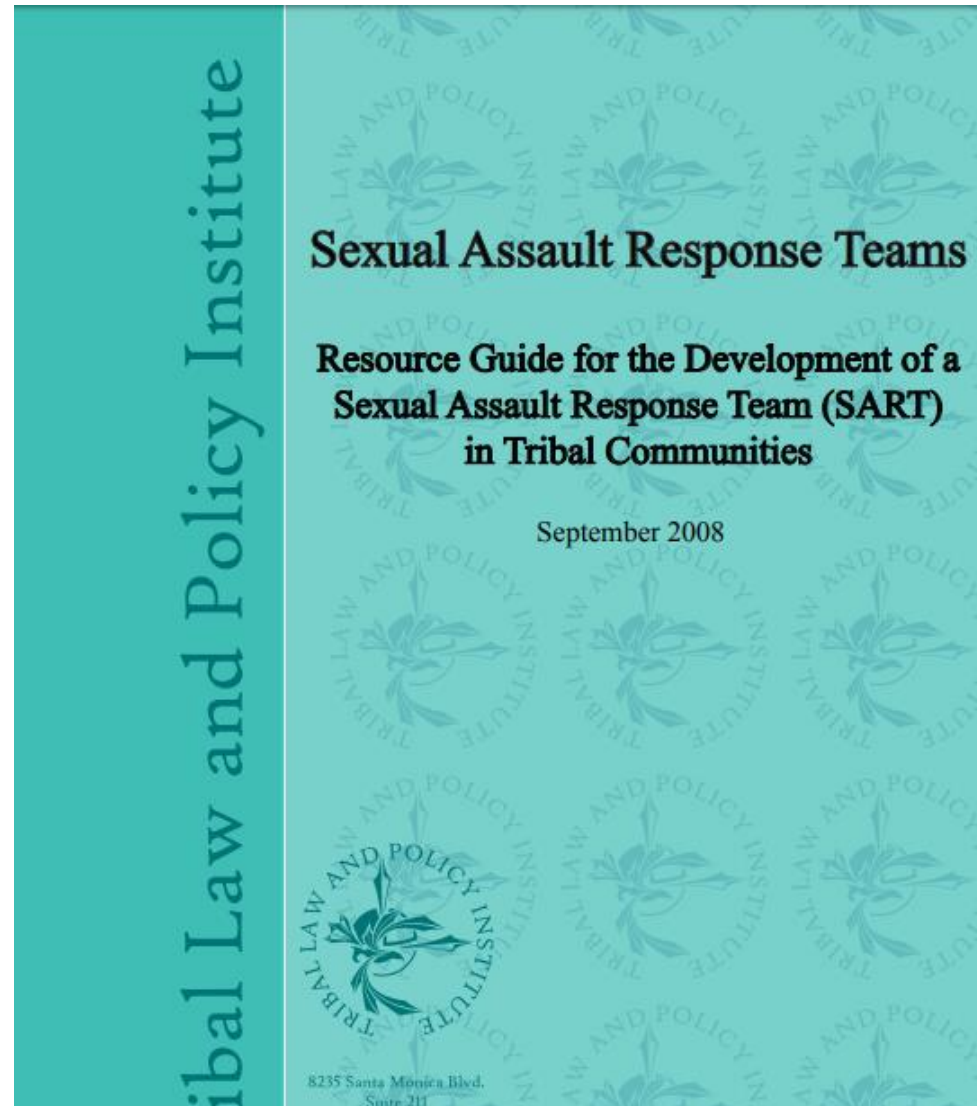
1. Inventory of Existing Services
2. Victim Experience Survey
3. Community Needs Assessment
4. Drafting Protocols
5. Adopt Protocol and Renew Interagency Agreements
6. Training
7. Monitoring
8. Evaluation



Additional Resources



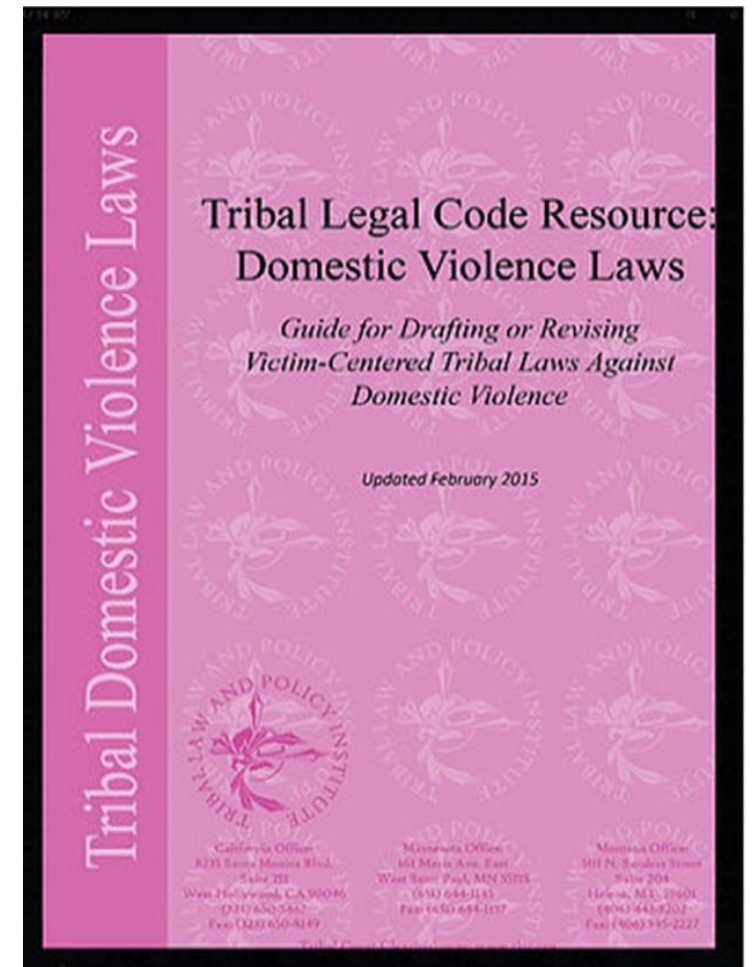
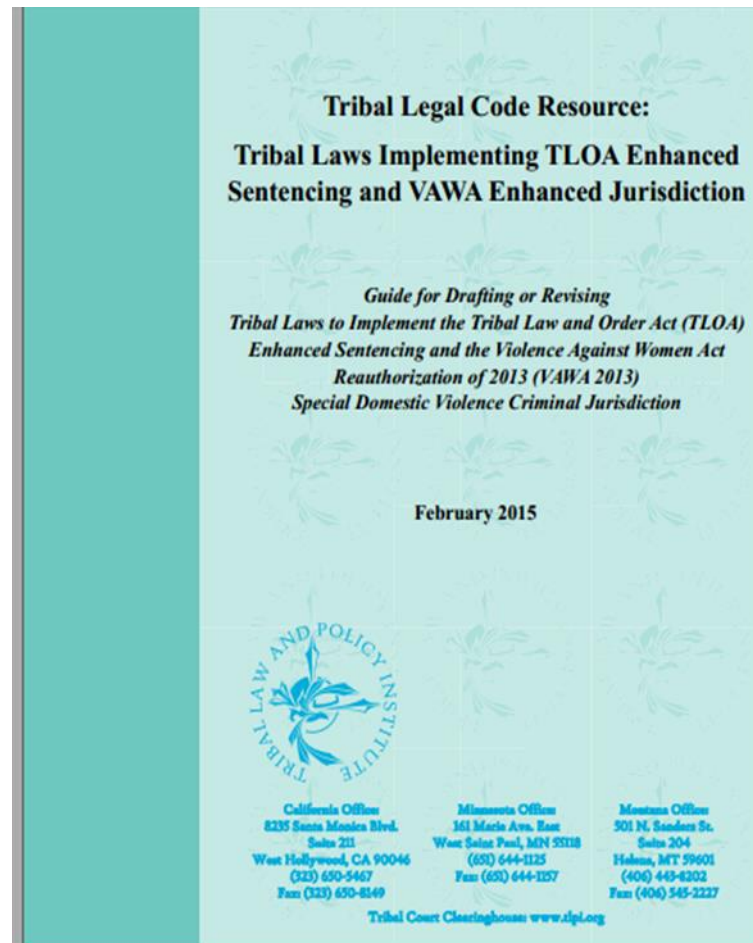
Sexual Assault Response Teams



Tribal Legal Code Resources

Tribal Laws Implementing TLOA
Enhanced Sentencing and VAWA
Enhanced Jurisdiction

Guide for Drafting or Revising Victim-
Centered Tribal Laws Against Domestic
Violence





The screenshot shows the homepage of the Tribal Protection Order Resources website. At the top left is a circular logo with a scale of justice in the center, surrounded by the text "TRIBAL PROTECTION ORDER" and "RESOURCES". To the right of the logo, the main heading reads "TRIBAL PROTECTION ORDER RESOURCES" in white text on a dark blue background, followed by the subtitle "An Online Resource for Drafting and Enforcing Tribal Protection Orders" and "A Project of the Tribal Law and Policy Institute". Below the header is a navigation menu with links for "HOME", "DRAFTING PROTECTION ORDERS", "ENFORCING PROTECTION ORDERS", "RESOURCES", and "TRAININGS AND EVENTS". The main content area is titled "Home" and contains a paragraph explaining the website's purpose, a section titled "1. What is a protection order?" with a detailed definition, and a final paragraph about civil protection orders. On the right side, there is a "Disclaimer" section and a "Meta" section with links for "Log in", "Entries RSS", and "Comments RSS".



VAWA Special Domestic Violence Criminal Jurisdiction Resources



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GETTING STARTED | PILOT PROJECT & ITWG | RESOURCES | UPDATES & EVENTS |



Tribal Implementation of VAWA

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



“Now our most important work begins.”

What you need to know to implement VAWA.


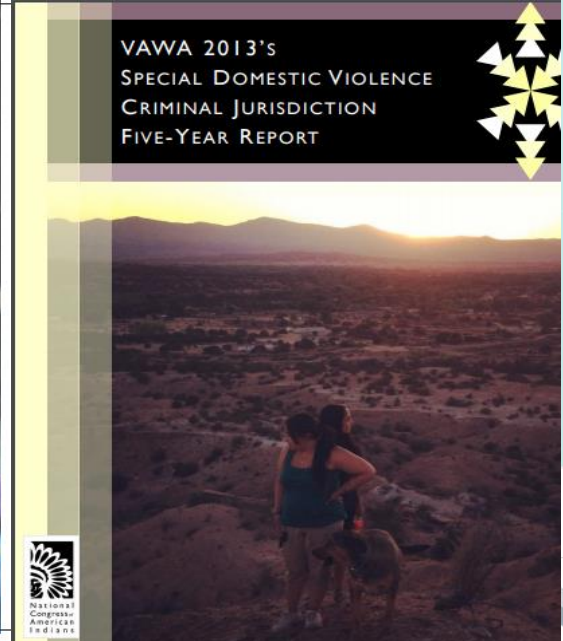
Resources to help you get started on implementing the Violence Against Women Act's tribal provisions.

› Tools to Help You Get Started Today!

Special Domestic Violence Criminal Jurisdiction Pilot Project Report



VAWA 2013's SPECIAL DOMESTIC VIOLENCE CRIMINAL JURISDICTION FIVE-YEAR REPORT




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

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Tribal Court Clearinghouse www.tlpi.org

TLPI Publications & Web Resources



Tribal Court Clearinghouse: www.TLPI.org or www.Home.TLPI.org

Tribal Protection Order Resources: www.tribalprotectionorder.org

Sex Trafficking Resources: www.tribaltrafficking.org



Questions?
