

## **TRIBAL DOMESTIC VIOLENCE COURTS AND TRIBAL DOMESTIC VIOLENCE DOCKETS**

*Tribal Domestic Violence Courts* are vital in exercising tribal judicial authority in a manner that focuses on victim safety, batterer accountability and healthy families. [Tribal Domestic Violence Courts](#) provide continuity for victims and are distinguished by designated domestic violence- trained court personnel and a community approach to victim services and a commitment to batterer accountability. These specialized tribal courts units may serve as a platform for exercising enhanced tribal court sentencing authority pursuant to TLOA and criminal jurisdiction over non-Indians committing certain Domestic Violence-related crimes in Indian country pursuant to section 904 of VAWA 2013.

*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 may allow continuity for the victim, and allows the tribal court to address related civil and criminal matters on the same day. It also allows the court to offer enhanced security, advocacy services, and child care for domestic violence victims. Research demonstrates that both DV Courts and DV Dockets can increase victim safety, reduce recidivism, and improve offender compliance with post-conviction supervision requirements.

See <http://www.justice.gov/sites/default/files/ovw/legacy/2014/03/13/2012-biennial-report-to-congress.pdf>.

### **GOAL: UTILIZING TRIBAL SOVEREIGNTY TO KEEP NATIVE WOMEN SAFE IN INDIAN COUNTRY**

In recent decades, Tribal Nations have faced significant hurdles in addressing public safety issues in Indian Country, most particularly Violence Against Native Women.

- Native people experience the highest rates of domestic violence and sexual assault in the United States;
- 34% of Native American women will be raped in their lifetime, 86% of them by non-Native perpetrators;
- 39% of Native American women will be victims of domestic violence during their lifetime;
- Violent crimes in Indian country are more than twice the national average. (In some areas more than 20 times).

### **FEDERAL LEGISLATION SUPPORTING TRIBAL SOVEREIGNTY**

In 2010, Congress passed the Tribal Law and Order Act (TLOA) to address violent crime in Indian country.

- TLOA relaxed federal restrictions placed on tribal sentencing authority allowing tribes that could meet certain federal benchmarks to exercise enhanced sentencing authority;

- In 2013, Congress passed “Safety for Indian Women” (VAWA 2013);
- VAWA 2013 clarifies tribal civil jurisdiction to issue protection orders in cases involving non-members;
- VAWA 2013 recognized tribal inherent criminal jurisdiction over non-Indians who commit certain acts of domestic violence/ protection order violations if those tribes can meet certain federal benchmarks;
- Alaska tribes were originally exempted from VAWA 2013 however, President Obama signed P.L. 113-275, [The Alaska Safe Families and Villages Act of 2013](#), which repealing that exemption.

### **TRIBAL SOVEREIGNTY AND TRIBAL DOMESTIC VIOLENCE COURTS**

*These Specialized Tribal Courts strengthen tribal judicial sovereignty by:*

- Incorporating unique tribal customs/traditions regarding healthy families and communities in all phases of a case involving domestic violence;
- Designating a specific, domestic violence -trained judge to preside over civil and/or criminal matters involving domestic violence;
- Allowing designated and specifically trained tribal court staff to implement policies, protocols and trainings for personnel that will come into contact with the family;
- Providing continuity for victims and families as the case progresses through the court system;
- Building strong partner relationships among collaborative service partners involved in the domestic violence case.

*The specialized Tribal Courts focus on victim safety and batterer accountability by:*

- Implementing protocols to keep victims informed.
- Implementing protocols to link victim with advocate for safety planning and other services;
- Spotlighting tribal victim service providing and resources for victims;
- Implementing protocols to create safe places within and outside the courthouse;
- Providing specially trained court/law enforcement personnel that are safety-focused.
- Implementing safety-driven scheduling of dockets;
- Providing court/law enforcement personnel trained in the dynamics of domestic violence;
- Promoting cross-pollination of batterer records for a more comprehensive monitoring;
- Allowing specialized court to determine culturally appropriate batterer programs;
- Focusing on post-adjudication batterer accountability;

- Providing review hearings and monitoring tailored to meet the needs of the victim and the children.

### **TRIBAL SOVEREIGNTY AND TRIBAL COURT DOMESTIC VIOLENCE DOCKET DAYS**

*Designing and implementing specialized docket days focuses on victim safety and batterer accountability by:*

- Hearing civil and/or criminal matters involving domestic violence on a certain days;
- Providing some measure of continuity for victims and families although resources may not allow assignment of designated judges;
- Provides some victim safety measures to be utilized on specific court days;
- Enhancing relationships with service providers working with the family.

### **ADDITIONAL RESOURCES**

- *Tribal Code Development, tribal domestic violence case law resource, tribal protection orders, and other articles found at <http://www.tribal-institute.org/lists/domestic.htm>*
- *Article on Protecting Sovereignty : The Role of Tribal Courts at <http://law.und.edu/tji/ files/docs/protecting-sovereignty-tribal-courts-2013.pdf>*
- *Domestic Violence Courts Key Principles (non-tribal specific) at <http://www.courtinnovation.org/research/key-principles-domestic-violence-court-accountability>*
- *History of Domestic Violence Courts (non-tribal specific) at <http://www.courtinnovation.org/topic/domestic-violence>*
- *Tulalip's DV Court at <http://www.tulaliptribes-nsn.gov/Home/Government/Departments/TribalCourt/DomesticViolence.aspx>*
- *Confederated Tribes of the Umatilla Indian Reservation Code and VAWA directive: <http://ctuir.org/court-code> and <http://ctuir.org/criminal-court-directive-vaawa>*
- *Pascua Yaqui Tribe code: <http://www.pascuayaqui-nsn.gov/ static pages/tribalcodes/index.php>*