

DOMESTIC VIOLENCE COURTS/DOCKETS AND FUNDING

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Presenters

- Honorable Steven D. Ayccock, (Ret.), Judge-in-Residence, National Council of Juvenile and Family Court Judges
- Kelly Gaines Stoner, Victim Advocacy Legal Specialist, Tribal Law & Policy Institute

Moderators:

- Virginia Davis, Senior Policy Advisor, National Congress of American Indians
- Chia Halpern Beetso, Tribal Court Specialist, Tribal Law & Policy Institute

Outline of Presentation

- Brief Overview of VAWA Title IX on Special Domestic Violence Criminal Jurisdiction
- Domestic Violence Courts/Dockets
- Funding Domestic Violence Courts/Dockets
- FY 2016 CTAS (Coordinated Tribal Assistance Solicitation) RFP
 - CTAS purpose area #5 (OVW Violence Against Women Tribal Governments Program)
 - 2 other OVW grants
 - Hints for applying
- Questions

Title IX of the 2013 VAWA

- Section 904: Tribal Jurisdiction over Crimes of Domestic Violence
 - “Special Domestic Violence Criminal Jurisdiction” which recognizes a tribe’s inherent criminal jurisdiction over **non-Indians** for the crimes of
 - Domestic Violence
 - Dating Violence
 - Violation of Protection Order











Tribes can now exercise Special Domestic Violence Criminal Jurisdiction

- Under VAWA Reauthorization Act of 2013, tribes now have the OPTION to exercise Special Domestic Violence Criminal Jurisdiction (SDVCJ).
- Currently the following tribes are exercising SDVCJ:
 - Confederated Tribes of the Umatilla Indian Reservation
 - Pascua Yaqui Tribe
 - Tulalip Tribes
 - Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation
 - Sisseton Wahpeton Oyate of the Lake Traverse Reservation
 - Little Traverse Bay Bands of Odawa Indians
 - Eastern Band of Cherokee
 - Seminole Nation of Oklahoma









VAWA SDVCJ BUILDS ON THE TRIBAL LAW AND ORDER ACT (TLOA)

- TLOA: P.L. 111-211 (2010)
- Modifies the Indian Civil Rights Act (ICRA) to provide tribal enhanced sentencing authority for tribes that can meet TLOA benchmarks.





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.		

DOMESTIC VIOLENCE COURTS/DOCKETS

A SPECIALIZED COURT

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 is 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

POSSIBLE BARRIERS

- Funding for tribal constitution and tribal code review and revisions where needed
- Various policies and procedure reviews (regarding non-Indian jury pool)
- Funding for specialized judges, court personnel and law enforcement
- Funding for court administration
- Funding for incarceration, probation and possible health care of non-Indian batterers
- May need technical assistance and training support to reach and maintain goals

A SPECIALIZED 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

POSSIBLE BARRIERS

- May not provide the continuity of a Domestic Violence Court regarding victim safety and batterer accountability
- May not provide platform for exercising SDVCJ
- May require funding for tribal constitution and/or code revisions
- May require funding for additional judges
- May require ongoing training on dynamics of domestic violence and victim safety issues

Domestic Violence Court and Domestic Violence Docket 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
- Articles on protocols on prosecuting sexual assaults in Indian Country at www.swclap.org
- Tribal Code Checklist for Implementing Special Domestic Violence Criminal Jurisdiction at <http://www.ncai.org/tribal-vawa/getting-started/tribal-code-development-checklist-for-implementation-aug-20142.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>

- To view the 5 SDVCJ pilot project tribes applications to DOJ: <http://www.ncai.org/tribal-vaawa/pilot-project-itwg/application-questionnaire>
- Confederated Tribes of the Umatilla Indian Reservation Code and VAWA directive: <http://ctuir.org/court-code>
<http://ctuir.org/criminal-court-directive-vaawa>
- Pascua Yaqui Tribe code: http://www.pascuayaqui-nsn.gov/static_pages/tribalcodes/index.php
- Tulalip Tribes DV Court: <http://www.tulaliptribes-nsn.gov/Home/Government/Departments/TribalCourt/DomesticViolence.aspx>
- Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation: <http://www.fptc.org/ccoj/ccoj.html>
- Sisseton Wahpeton Oyate of the Lake Traverse Reservation: <http://www.swo-nsn.gov/departments/justice-department/legal-department/>

HOW TO FUND A DV COURT/DOCKET

CTAS

Purpose Area #5

CTAS: Application Timeline

□ Solicitation:

- Opened November 19, 2015
- ***Closes February 23, 2016*** (9pm Eastern)
- Recommended to register for GMS no later than February 2, 2016.
- DOJ expects to award grants no later than September 30, 2016

CTAS Purpose Area #5 Violence Against Women Tribal Governments Program (OVW)

Purpose Area	Estimated Amount of Funding Available	Estimated Number of Awards to be made; Estimated Award Amounts	Length of Award
5) Violence Against Women Tribal Governments Program	\$32 million	Approximately 60 awards; Approximately \$450,000 for new grantees; up to \$900,000 for current grantees	3 years

- Last Year: 84 applications were received, 52 awards were made

OVW Point of Contact:

Lorraine Edmo: Lorraine.Edmo@usdoj.gov

Doresa Payton: Doresa.Payton@usdoj.gov

Notes on the Violence Against Women Tribal Governments Program

- FY 2014 and 2015 grantees are not eligible to apply for new or continuation funding.
 - Limitations on eligibility of FY 2013 grantees
- Collaborative partnership requirement
 - Indian victim services provider organization;
 - Tribal domestic violence or sexual assault coalition; or
 - Advisory committee
- Application must reflect “sound strategies to enhance victim safety and offender accountabilities”
 - See RFP for list of discouraged activities
- Funds for legal assistance require certification

JUSTICE FOR FAMILIES PROGRAM

Justice For Families Program

- Purpose: to improve the response of all aspects of the civil and criminal justice system to families with a history of domestic violence, dating violence, sexual assault, and stalking, or in cases involving allegations of child sexual abuse.
- Purpose Area 1 – Supervised Visitation and Safe Exchange
- Purpose Area 3 - Training for Court-based and court-related personnel
- Purpose Area 4 – Juvenile Court Resources
- Purpose Area 5 – Court and Court-based Programs and Services
- Purpose Area 6 – Civil Legal Assistance

Priority Areas

- Meaningfully increase access to OVW programming for underserved populations.
- Increase the use of promising or evidence-building practices, where available.
- Need to show authentic commitment to addressing these priority areas.
- **May** be given special consideration during the review process.

Justice For Families: Application Timeline

- ❑ Solicitation:
 - ❑ Opened November 24, 2015
 - ❑ ***Closes January 21, 2016*** (11:59 pm Eastern)
 - ❑ Must register for GMS
 - ❑ OVW expects to award grants no later than September 30, 2016

Eligibility

- National in scope, **NOT** limited to Tribal entities
- New Applicants only
 - Current and former Safe Havens and Courts grantees are considered new applicants (some restrictions if your current funding lasts past September 30, 2016).
- Justice for Families grant recipients that received funding for 24 months in FY 2015 are not eligible to apply.
- Eligible Entities: states, units of local government, courts, Indian tribal governments, nonprofit organizations, legal services providers, and victim services providers

Purpose Area 3 (train individuals)

- Covers court-based, court-related, court-appointed personnel (includes custody evaluators and guardian ad litem) and child protective service workers
- Dynamics of domestic violence, dating violence, sexual assault, and stalking
- Perpetrator behavior
- Evidence based risk factors for domestic and dating violence homicides
- Needs of victims – safety, security, privacy, confidentiality and self-represented victims
- Must also propose a project under Purpose Area 1 or 5.

Purpose Area 5 (Courts or Programs)

Enables courts, court-based or court-related programs to develop or enhance:

- Court infrastructure (specialized dockets, intake centers, etc.)
- Community based initiatives (court watch, victim assistants, pro se assistance)
- Offender management, monitoring and accountability programs
- Information storage and sharing
- Community education and outreach
- Projects likely to improve court responses

May apply for just this Purpose Area or may include additional purpose areas.

Partnerships

- Lead partner

Court – must have victim services partner

Victim services provider – must have Court as partner

Neither court nor service provider – must have both victim service provider and Court as partners

Purpose Area #3 & 5

Purpose Area	Maximum Award Amounts	Length of Award
3) Training	\$600,000	3 years
5) Court programs	\$600,000	3 years

OVW Point of Contact:

202-307-6026

RURAL SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING PROGRAM

Purpose Area #5

Rural Program

Purpose:

- Enhance the safety of rural victims of sexual assault, domestic violence, dating violence and stalking
- Support projects uniquely designed to address and prevent these crimes in rural areas
- Collaboration is encouraged
- Recognizes the richness of diversity in rural communities
- Capacity building and partnerships

Purpose Areas

- Encourage collaboration among stakeholders – victim service providers, law enforcement, prosecutors, courts, criminal justice providers, community service providers, educational institutions, health care providers
- Establish and expand nonprofit and nongovernmental, government victim services
- Increase safety and well being by dealing directly and immediately with, and creating and implementing strategies to increase awareness of and prevent SA, DV, dating violence, and stalking

Priority Areas

- Increase support for sexual assault, including services, law enforcement response and prosecution.
- Meaningfully increase access to OVW programming for specific underserved populations.
- Establish or increase support for Rural and Tribal Domestic Violence Dockets or Courts
- These applications **may** be given special consideration during the review process.

Rural Program

Solicitation:

- Opened December 8, 2015
- Closes February 1, 2016 (11:59 pm Eastern)***
- Must register for DUNS, System Awards Manager and Grants.gov by January 19, 2016
- Strongly recommend letter of registration by January 19, 2016
- DOJ expects to award grants no later than September 30, 2016

Eligibility

- Rural state – population density no greater than 57 people per square mile or target county is less than 250,000
- Rural area/community – any area or community not defined within a metropolitan statistical area, or not in a metropolitan statistical area and located in a rural census tract, or a federally recognized Tribe

Partnerships

- All applicants must include a victim service provider either as lead applicant or project partner.
- All applicants must have at least one partner necessary to implement the proposed project.
- Need an MOU, or for court partners a Letter of Support, for the partnership.

Rural Program

Purpose Area	Award Amounts	Length of Award
All	Continuation awards - \$750,000 Max. New applicants - \$500,00 Max. Typical range - \$350,000-\$750,000 Estimates – 50 awards for \$33,000,000	3 years

Estimate of 40 awards

OVW Point of Contact:

202-307-6026

Applying for Grants

- Read the grant solicitation carefully and fully.
 - <http://www.justice.gov/ovw/file/795026/download> - Justice for Families
 - <http://www.justice.gov/ovw/file/797706/download> - Rural
- If you have questions ASK
 - (202) 307-6026 OVW
 - TA provider (limited ability to help but can answer questions)

Applying for Grants

- Re-read the solicitation
- Create and follow solicitation requirement chart
- Follow all requirements and all time lines
- Think about the points and what that means for length and importance of segments.
 - If you have 10 pages and one segment is worth 5 points, one is worth 10 points and one is worth 35 points (50 points total, 5 points per page), $5 = 1$ page; $10 = 2$ pages; $35 = 7$ pages.

Questions