

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

Harbor Springs, Michigan 49740

TRIBAL COUNCIL TRAVEL REPORT

FROM; April 5, 2016 Travel Day

One Day VAWA – Three Days FEB

RETURN: April 9, 2016 Travel Day

Attended Intertribal Technical –Assistance Working Group on Special Domestic Violence Criminal Jurisdiction (ITWG), 6th In-Person meeting was one day April 6th 8:30 till 5:30 pm.

Meetings contained overview of inter-tribal working group. There are now thirteen (13) tribes who have implemented Special Domestic Violence Criminal Jurisdiction (SDVCJ) under VAWA. Any new tribes to implement VAWA need not sent to DOJ for approval.

Several tribes gave brief updates on where their tribes are with implementation, including issues any tribe wanted to discuss. For instance: Pascua Yaqui Tribe AZ last two (2) years has had 30 investigations, 22 defendants, 2 Hispanic, 2 black 2 white, and 1 Asian. Tulalip Tribe WA state tribal judge said way to many to recall. Others tribes have had arrest and jury trials. Usually a 6 person tribal member juries. The Nottawaseppi Huron Band of the Poawatomi implemented their law on March 16, 2016.

LTBB has been fortunate in the domestic violence arena so far, compared to others. The Eastern Band of Cherokee Indians NC has a case in their court of a non-member white person who has cost the tribe \$60,000. Dollars in medical cost for an injury to a hand while in custody.

Last Inter-Tribal Working group Report was not ready from the DOJ. Tribes who implements VAWA from now need not get approval from the DOJ. DOJ grants for SDVC implementation has \$2.5million for the program originally authorized in VAWA 2013 to support tribal efforts to implement. Those who qualify need to their grant proposals in.

This has been my second meeting of VAWA I only wish I would have been around for the beginning. It has been an honor to have taken up where Winnay Weimgash left off.

Please see attached documents.

Miigwech to Tribal Citizens and Tribal Council for allowing me this education and experience.

Miigwech

*Dea Law
Tribal Council Member, 0860*

A handwritten signature in cursive script, appearing to read "Bea Law". The letters are fluid and connected, with a prominent loop at the start of the first letter.

Bea Law, Tribal Council Member 0860

**Intertribal Technical-Assistance Working Group on
Special Domestic Violence Criminal Jurisdiction (ITWG)
6th In-Person Meeting
April 6, 2016**

TALKING STICK RESORT, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Wednesday, April 6 – ROOM DOVE H & I

8:30 – 9:00 a.m. **OPTIONAL: Pre-meeting Refresher to Review Basics of 25 U.S.C. 1304 – Special Domestic Violence Criminal Jurisdiction** *John Dossett Lyal/NCAI*
Virginia Davis, National Congress of American Indians

9:00 – 9:10 a.m. **Traditional Opening & Welcome**
** President Delbert W. Ray, Sr., Salt River Pima-Maricopa Indian Community*

9:10 – 9:20 a.m. **Overview of Inter-Tribal Working Group Meeting**
John Dossett, General Counsel, National Congress of American Indians
Steve Aycock, National Council of Juvenile & Family Court Judges

9:20 – 10:40 a.m. **Update from Implementing Tribes**
50 cases implemented 10 years ago
There are at least 10 tribes who have implemented SDVCJ under VAWA. Each tribe will provide a brief update on their cases and highlight challenges and successes with implementation. *last 2 yr #/s - 2 blue 2 white*

- o Pascua Yaqui Tribe (AZ) *3 arrested 27 defendants 1 Asian 1 Hispanic arrest*
- o Tulalip Tribes (WA) *lots of cases*
- o Confederated Tribes of the Umatilla Reservation (OR) *6 arrests*
- o Sisseton-Wahpeton Oyate (SD/ND) *1 case - w/T + had settled*
- o Assiniboine & Sioux Tribes of the Ft. Peck Reservation (MT) *2 cases*
- o Little Traverse Bay Band of Odawa Indians (MI)
- o Eastern Band of Cherokee Indians (NC) *3 cases - 6 months jury*
- o Seminole Nation (OK) *2/4 Sept. none*
- o Nottawaseppi Huron Band of the Potawatomi *Elis Cook - judge*
- o Muscogee (Creek) Nation
- o Others?

Mar 17/16

Update from Other ITWG Member Tribes
Please be prepared to give a brief update on where your tribe is with implementation, including any issues your tribe would like to discuss.

✓ 10:40 – 10:50 a.m. **Break**

10:50 – 11:10 a.m. **Follow-Up from Last Inter-Tribal Working Group Meeting**

- Pilot Project Report *Waiting for DOS*
Virginia Davis, NCAI
The final report from the Pilot Project period will be distributed and discussed.

** Post on Grants.gov as soon as possible time line?*

DOJ Grant Program for SDVCJ Implementation *Recommend to include - set up to apply*
Rebekah Jones, USDOJ Office on Violence Against Women
Last December, Congress appropriated \$2.5 million for the program originally authorized in VAWA 2013 to support tribal efforts to implement SDVCJ. DOJ will provide an update on how these funds will be administered. *get grant proposal ready.*

Health care costs for non-Indian inmates
Virginia Davis, NCAI
We will discuss a draft paper exploring the challenges tribes face covering health care costs for

*Correct Care
Solution in Michigan
That will serve out
inmates in jail*

non-Indian inmates and possible options for managing costs, including Medicaid eligibility after passage of the Affordable Care Act. *need help with what question need to be asked*

11:10 – 11:30 a.m. VAWA Implementation Questions for BIA, DOJ, and IHS

Facilitator: John Dossett, NCAI

During this session we will identify questions related to implementation of SDVCJ that require guidance or policy changes from our federal partners. Issues to be discussed may include detention of non-Indians, training for tribal law enforcement and court personnel, and information sharing.

11:30 – 12:00 Follow-up on Access to Federal Criminal Information Databases and DOJ's Tribal Access Program (TAP)

Tracy Toulou, USDOJ, Office of Tribal Justice

Brent Leonhard, Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Michelle Demmert, Tulalip Tribes

Participants will provide an update on DOJ's TAP program. TAP was launched in 2015 to address tribal barriers to accessing the federal criminal information databases. Ten tribes, including CTUIR and the Tulalip Tribes, are currently participating in a User Feedback Phase.

12:00 – 1:30 p.m. Lunch – On your own

Tribal Law and Policy Institute will be coordinating a lunch with tribal coalition representatives.

1:30 – 3:15 p.m. Breakout 1 – Dove H & I

Considerations for SDVCJ Implementation

Moderator: John Dossett, NCAI

Panelists: Ethel Branch, Attorney General, Navajo Nation

Jeff Harmon, Chief Prosecutor, Salt River Pima Maricopa Indian Community

During this session participants will discuss common concerns and questions that arise when tribes consider implementing SDVCJ including: funding, staffing resources, code development, jury management, whether to establish a DV court or docket, and detention issues, particularly health care costs for non-Indian inmates. Participants will also discuss, how to engage tribal stakeholders to consider whether to move forward with SDVCJ implementation and what role tribal leaders, tribal coalitions, and tribal attorneys can play in the decision-making process. This session is open to all interested attendees.

Breakout 2 – Quail E

Tribal Judges: Discussion of Implementation and Exercise of SDVCJ

Moderator: Judge Steve Aycock (ret.), NCJFCJ

Panelists: Judge Eldena Bear Don't Walk, Assiniboine & Sioux Tribes

Judge Bill Boyum, Eastern Band of Cherokee Indians

Judge Allie Maldonado (invited), Little Traverse Bay Band of Odawa Indians

During this session tribal judges will have an opportunity to talk with their peers about specific issues related to SDVCJ implementation. Judges from several of the implementing tribes will start the discussion by sharing their experiences. Judges will also discuss tribal court contempt power and how it can be a useful tool in SDVCJ cases. Time permitting we may also discuss protection orders, judicial training requirements or other topics as chosen by the judges. This session is open to tribal judges only.



Breakout 3 – Quail F

Subworking Group on Amendments to VAWA

At the last in-person ITWG meeting, a subworking group was formed to identify ways that federal law should be strengthened to enhance SDVCJ implementation. This session will provide an opportunity for those interested in participating in this subworking group to discuss proposals to strengthen the law. This session is open to all interested attendees.

3:30 – 4:00 p.m. Discussion: Criminal Contempt Authority

Steve Aycock, NCJFCJ

Judge Kirk Saunooke, Eastern Band of Cherokee Indians

Because of the statutory framework for SDVCJ, the tribal court's inherent criminal contempt authority takes on a heightened importance. In this session, we will discuss the parameters of a court's contempt authority and how it can be used to address some of the gaps in SDVCJ. We will also discuss how criminal contempt authority should be addressed in tribal codes.

4:00 – 5:00 p.m. Discussion: Responding to Constitutional and Habeas Corpus Challenges

Discussion Leader: John Dossett, NCAI

Panelists: Shaun Eastman, Tribal Attorney, Sisseton Wahpeton Oyate

Brent Leonhard, Tribal Attorney, Confederated Tribes of Umatilla

Mary Kathryn Nagle, Pipestem Law Firm



When SDVCJ was being considered by Congress, there was a great deal of debate about the constitutionality of the provision. Since the law went into effect, we have anticipated that the constitutionality of the law would be challenged in tribal or federal court. The first such challenge was lodged earlier this year in the Sisseton Wahpeton tribal court. During this session, participants will discuss the recent challenge that occurred at Sisseton Wahpeton Oyate. We will also discuss what future challenges may look like and how we can prepare to defend the constitutionality of the law.

A group of Yale Law students who have been conducting research to help defend the law will provide an update on their work:

- Katie Jones
- Chelsea Lane-Miller
- Lynsey Gaudio
- Gregory Buzzard
- Allison Tjemsland

5:00 – 5:30 p.m. Wrap-up and Next Steps

The list of possible legislative amendments below was generated at past meetings of the ITWG. It is being provided to help facilitate discussion. None of the items included below have been adopted or endorsed by the ITWG.

1. Expand reaffirmation of tribal jurisdiction to cover additional crimes. This could include:

- a. Crimes that co-occur with DV
- b. Crimes with child victims
- c. Crimes committed by SDVCJ defendants within the criminal justice system
- d. Stranger and acquaintance rape, stalking, and sex trafficking
- e. All crimes committed by non-Indians with “sufficient ties to the tribe”
- f. All crimes committed by non-Indians in Indian Country

2. Clarify the federal statutory definition of “domestic violence” to include all crimes the tribe codifies as DV
Amend 25 USC 1304(a)(2) to read:

“The term ‘domestic violence’ ~~means violence~~ includes felony or misdemeanor violations of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violations occur that are committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim under the domestic or family violence laws of an Indian tribe that has jurisdiction over the Indian country where the violence occurs.”

3. Clarify that the right to a jury trial attaches only if there is possibility of imprisonment.

Amend 25 USC 1304(d)(3) to read:

“3. If a term of imprisonment of any length may be imposed, the right to a trial by an impartial jury that is drawn from sources that...”

4. Clarify that tribal court remedies must be exhausted prior to filing a habeas petition in federal court.

5. Reauthorize BOP Pilot Project and allow SDVCJ participating tribes to utilize it for SDVCJ defendants.

6. Reauthorize grant program authorized in VAWA 2013 and increase authorization level.

Amend 25 USC 1304(h) to read:

“(h) AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated [\$5,000,000] for each of fiscal years 2018 2014 through 2022 2018 to carry out subsection (f) and to provide training, technical assistance, data collection, and evaluation of the criminal justice systems of participating tribes.

7. Authorize additional funding for TAP program, including money for technical assistance for participating tribes.

G. E. R. m.
1:30

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200 Tribes - Alaska
Women + Children - higher risk
Sex need for protection

How to address crimes that
go unpunished.

OL Forensic?

How do we get all Congress the
tribe want jurisdiction over all
illegal activity on Reservation

Rm full of legal pet

13 adopted
VAWA

Donna should
be in attendance
to take part
in the conversation
on the legal
aspect of
VAWA

Implementation Chart: VAWA Enhanced Jurisdiction and TLOA Enhanced Sentencing

Revised 4/5/2016

State	Indian Tribes	ITWG* or Exploring VAWA	Implemented VAWA	Close to VAWA Implementation	TLOA Enhanced Sentencing Implemented ¹	Close to TLOA Enhanced Sentencing Implementation ²	Exploring Enhanced Sentencing ³	Utilized Bureau of Prisons	Notes
OK	Comanche Nation						•		
WI	St. Croix						•		
WI	Ho-Chunk Nation						•		
MT	Crow Nation						•		
MN	White Earth Band of Ojibwe	ITWG							concurrent jurisdiction approved by DOJ under TLOA PL 280 provision
AZ	Colorado River Indian Tribes	ITWG					•		
OK	Kickapoo Tribe of Oklahoma	ITWG							
ID	Nez Perce	ITWG							
WI	Oneida Tribe of Wisconsin	ITWG							
ME	Passamoquoddy Tribe	ITWG							
CA	Pauma Band of Mission Indians	ITWG					•		
NM	Pueblo of Isleta	ITWG							
NM	Pueblo of Santa Clara	ITWG					•		
OK	Quapaw Tribe	ITWG					•		
MI	Sault Ste. Marie Tribe of Chippewa	ITWG							
WA	Spokane Tribe of Indians	ITWG							
NE	Winnebago Tribe of Nebraska	ITWG							
AZ	Tohono O'odham Nation	Exploring VAWA					•		
OR	Warm Springs Confederated Tribes	Exploring VAWA							
MT	Fort Belnap	Exploring VAWA							
AZ	Navajo Nation	Exploring VAWA							
OK	Osage Nation	Exploring VAWA							
NV	Pyramid Lake	Exploring VAWA							
WA	Swinomish Indian Tribal Community	Exploring VAWA					•		
OK	Apache Tribe of Oklahoma	Exploring VAWA							
CA	Iipay Nation of Santa Ysabel	ITWG*							
OK	Pawnee Nation	ITWG*							
AZ	White Mountain Apache Tribe						•		
AZ	Hualapai Tribe						•		
WA	The Confederated Tribes Of The Colville Reservation						•		

KEY:

TLOA = Tribal Law and Order Act

VAWA = Violence Against Women Act of 2013

ITWG= InterTribal Working Group: tribes that have been involved in pilot project process since 2013

Exploring VAWA= Tribes expressing interest recently but not in ITWG pilot project process since 2013

ITWG*- Joined ITWG in 2015

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OR	Confederated Tribes of the Umatilla Indian Reservation	ITWG	Pilot Project 2/6/14		•			•	
AZ	Pascua Yaqui	ITWG	Pilot Project 2/6/14		•				
WA	Tulalip Tribes Of Washington	ITWG	Pilot Project 2/6/14		•			•	DOJ accepted retrocession 2001, http://www.gpo.gov/fdsys/granule/FR-2000-12-05/cr-2000-12-05.html
MT	Fort Peck Tribes	ITWG	Pilot Project 3/6/15		•				
SD	Sisseton-Wahpeton Oyate	ITWG	Pilot Project 3/6/15		•				
MI	Little Traverse Bay Band of Odawa Indians	ITWG	3/7/15				•		http://www.indianz.com/News/2015/016818.asp
NC	Eastern Band of Cherokee Indians	ITWG	6/8/2015		•			•	
OK	Seminole Nation of Oklahoma	ITWG	7/16/2015				•		
MI	Nottawaseppi Huron Band of the Potawatomi	ITWG	3/18/2016						
OK	Muscogee Creek Nation	ITWG	3/29/2016			•			
OK	Cherokee Nation of Oklahoma	ITWG		2015	•				
MS	Mississippi Band of Choctaw Indians	ITWG		2015					
CA	Hopland Band of Pomo Indians	Exploring VAWA		2015					
ND	Three Affiliated Tribes of the Fort Berthold Reservation	ITWG		2015-2016		•			
WA	Port Gamble S'Klallam Tribe	ITWG		2015-2016		•			
ND	Standing Rock Sioux	ITWG		2015-2016		•			
MN	Mille Lacs Band of Ojibwe	Exploring VAWA		2015-2016			•		
WA	Shoalwater Bay	Exploring VAWA		2015-2016			•		
MI	Grand Traverse Band of Ottawa & Chippewa Indians	Exploring VAWA		2015-2016					
SD	Cheyenne River Sioux	ITWG		2015-2016					
WA	Yakama Nation	Exploring VAWA		2015-2016					
MN	Red Lake Nation	Exploring VAWA		2015-2016					
MT	Confederated Salish and Kootenai Tribes	Exploring VAWA							
UT	Ute Indian Tribe (Uintah and Ouray)	Exploring VAWA					•		
AZ	Hopi Tribe	ITWG			•				
AZ	Salt River Indian Community (AZ)	ITWG			•				
AZ	Gila River Indian Community	ITWG			•				
MI	Pokagon Band of Potawatomi Indians	ITWG				•			
WA	Puyallup Indian Tribe	ITWG				•			
NM	San Carlos Apache Nation					•			
WA	Quinalt Indian Nation	ITWG				•			
WA	The Suquamish Tribe	ITWG				•	•		
CO	Ute Mountain Ute					•			
NM	Pueblo of Laguna	ITWG				•			
NM	Pueblo of Zuni					•			
KS	Prairie Band Potawatomi Nation	ITWG				•			
WI	Menominee Nation	ITWG				•			
OK	Chickasaw Nation	ITWG				•			
WA	Chehalis Tribe						•		
OK	Iowa Nation						•		
WA	Makah Nation						•		
LA	Chitimacha						•		