

LITTLE TRAVERSE BAY BAND OF ODAWA INDIANS

Tribal Council Member Travel Report

OFFICE ON VIOLENCE AGAINST WOMEN

Conference

Plam Springs, Calafornia

December 4-7, 2016

Miigwech, to Tribal Citizens and Tribal Council for the opportunity to attend this VAWA conference. By attending the conference each recognized Tribe has the opportunity to come before the Department of Justice panel and express the needs of each Tribes that needs to be addressed in the Federal VAWA Act as it pertains to justice for Tribal woman and children.

Day 1.

John Dossett, NCAI Legal and Virginia Davis NCAI Advisor lead the first morning and reviewed the purpose of the meeting. It was a review of VAWA Reauthorization 2013, the issue for Tribes revising/reviewing Tribal Codes in order to work well with Tribes that have implanted VAWA.

- There are 13 Tribes who have implemented SDVCJ under VAWA of those 11 were given the floor to speak about cases they have had or comment on experiences under VAWA. Issues: Arrest of non-Tribal and the cost of medical when held in jail. 2. On larger reservation non-tribal persons is a high number and the cost a real issue. 3. Not having jails/facilities to houses people under arrest. 4. Michael Wolf LTBB Court Administrator stating there needs to be more education and training regarding working with community partners. We have had no cases; however LTBB is working on regulations and policies. Note; other Tribes look to others Tribes web sites for information. 5. Underfunding is always an issues for many Tribes.**

Nottawaaseppi Huron Band of the Potawatomi gave a presentation regarding how they work on their VAWA law up to implantations. The piece I found interesting was no council were on the work group.

DOJ gave an update on their TAP program. It was launched in 2015 to address Tribal barriers accessing the federal criminal information database.

In the past it has not been easy for our Tribal police departments to get criminal background information on persons.

Day 2. Testimonies provided by elected officials.

Government –to Government Consultation on VAWA American Indians & Alaska Native Women began at 9am and ended at 7pm. (Lunch use provided each day no other breaks).

At least 6 of the 229 Alaskan tribes were in attendance. Their most compelling stories are and seem to effect each tribe is lack of funding. Domestic violence, suicide, murders unsolved, rape, alcohol, drugs, lack of law enforcement and promises not kept by the Government. These same issues are the same with many tribes along with human trafficking of young girls and women.

A past chair and tribal council Alaskan served 40 years stated:’ we come to these and other consultations because if we do we are told help would come with our situations. In my 40 years the government has yet to come”.

My testimony I recognized Michael Wolf , Tribal Court Administrator, Stacy Ettawageshik, Survivor Outreach Specialist, Diana Isard DV Project Coordinator, Yvonne Gureau, Transitional Housing Specialist, Keely Frye Sexual Assault Specialist. (They stayed for the entire time.)

Issues: 1. Strength our relationship with the US District Attorney Office for federal cases to prevent false hope for any federal cases. 2. Transportation for federal prisoners. 3. VOCA funds made available to all Tribes. 4. Assist implementing TOLA. 5. SDVCJ available to tribes. 6. The need to review our VAWA Statute. 7. Reopen the Domestic Violence Statute for revision to include family members and others. 8. We have been working on Regulations and PPO development for at least one year.

I will get with Donna to prepare a letter to the DOJ as requested.

Miigwech to the Tribe and its Citizens for this opportunity to learn and serve.

Bea Law

Tribal Council Member, Bea Law 0860

December 8, 2016

See attachments.

12/05/16
BD

Intertribal Technical-Assistance Working Group on Special Domestic Violence Criminal Jurisdiction (ITWG)

7th In-Person Meeting

December 5, 2016

CATALINA ROOM, RENAISSANCE HOTEL, AGUA CALIENTE RESERVATION

Monday, December 5

8:30 – 9:00 a.m. **OPTIONAL: Pre-meeting Welcome to ITWG and Refresher to Review the Basics of 25 U.S.C. 1304 – Special Domestic Violence Criminal Jurisdiction**

Virginia Davis, National Congress of American Indians

9:00 – 9:10 a.m. **Traditional Opening & Welcome**

Juana Majel Dixon, Traditional Councilwoman, Pauma Band of Mission Indians

9:10 – 9:20 a.m. **Overview of Inter-Tribal Working Group Meeting**

John Dossett, National Congress of American Indians (NCAI)

Steve Aycock, National Council of Juvenile & Family Court Judges (NCJFCJ)

9:20 – 10:50 a.m. **Update from Implementing Tribes**

There are at least 13 tribes who have implemented SDVCJ under VAWA. Each tribe will provide a brief update on their cases and highlight challenges and successes with implementation. The implementing tribes will be asked to specifically address what they would have done differently and lessons learned.

- Pascua Yaqui Tribe (AZ)
- Tulalip Tribes (WA)
- Confederated Tribes of the Umatilla Reservation (OR)
- Sisseton-Wahpeton Oyate (SD/ND)
- Assiniboine & Sioux Tribes of the Ft. Peck Reservation (MT)
- Little Traverse Bay Band of Odawa Indians (MI)
- Eastern Band of Cherokee Indians (NC)
- Seminole Nation (OK)
- Nottawaseppi Huron Band of the Potawatomi (MI)
- Standing Rock Sioux Tribe
- Muscogee (Creek) Nation
- Sac and Fox Nation
- Kickapoo Tribe of OK
- Others?

Updates 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.

10:50 – 11:00 a.m. **Break**

11:00 – 12:00 p.m. **Defense Bar Perspectives on SDVCJ**

During this session we will hear from criminal defenders from several of the implementing tribes about their experiences with implementation.

Moderator: Steve Aycock, NCJFCJ

Melissa Acosta, Pascua Yaqui Tribe

Chris Siewers, Eastern Band of Cherokee Indians

Dustin Kuipers, Ft. Peck Assiniboine Sioux Tribe

12:00 – 1:00 p.m. **Working Lunch – Responding to Violence Against Indian Women – Coordinated Community Response**

Jeremy Nevilles-Sorrell, Mending the Sacred Hoop

During this session participants will explore a holistic overview of the dynamics of domestic violence and how it impacts individuals and the community as a whole. The importance of a comprehensive community-wide response to domestic violence will be discussed.

1:10 – 2:30 p.m. **Breakout 1**
Defense Bar Discussion of SDVCJ Implementation – Pueblo A

Moderator: Chia Halpern Beetso, Tribal Law and Policy Institute (TLPI)

During this session criminal defenders from the ITWG member tribes will have an opportunity to discuss common concerns and questions that arise when tribes begin implementing SDVCJ including: funding, staffing resources, code development, and habeas challenges.

Breakout 2
Tribal Judges: Discussion of Implementation and Exercise of SDVCJ – Pueblo B

Moderator: Steve Aycok, NCJFCJ

During this session tribal judges will have an opportunity to talk with their peers about specific issues related to SDVCJ implementation. This session is open to tribal judges only.

Mike

Breakout 3
Prosecutors Discussion of SDVCJ Implementation - Due Process in Tribal Courts – Chino A/B

Moderator: John Dossett, NCAI

Participants will have an opportunity to discuss common concerns and questions that arise in implementation of SDVCJ. They will also discuss due process in tribal courts in light of the 9th Circuit's recent decision in Alvarez v. Tracy and the question of whether it is necessary to prove non-Indian status of the defendant in SDVCJ cases.

*VAWA
Enactment Team*

Breakout 4
Implementation of SDVCJ: Community engagement, tribal leader support, and code drafting – Catalina Room

Moderator: Kelly Stoner, TLPI

Panelists: Judge Melissa Pope, Nottawaseppi Huron Band of Potawatomi

Elizabeth Cook, Attorney, Nottawaseppi Huron Band of Potawatomi

Patti McClure, DV Victim Advocate, Nottawaseppi Huron Band of Potawatomi

During this session the Nottawaseppi Huron Band of Potawatomi will discuss how they engaged stakeholders in the implementation process, secured the support of tribal council, and approached revisions to their codes, policies, and procedures. Participants will also learn about tools and resources available to help assist with SDVCJ implementation.

*Court Rules specific to the Code? Procedures
Look @ on web sites
NO TC. on VAWA Committee*

2:40-3:10 p.m. **Reports from Breakout Sessions**

Each breakout session will provide a brief update on their discussion.

Development of Developing VAW Services

government D.V. leave - Jamii story

what resources do our 2% sponsor & do we use it?

Language = \mathbb{F}_2 Power point

3:10 – 4:15 p.m. **Updates and Discussion with DOJ & DOI**



Marcia Good, U.S. Department of Justice (USDOJ), Office of Tribal Justice
Ted Zalewski, USDOJ, TAP Program
Lorraine Edmo, USDOJ, Office on Violence Against Women
William "Bill" McClure, Office of Justice Services, Bureau of Indian Affairs

- **DOJ Grant Program for SDVCJ Implementation**

Last December, Congress appropriated \$2.5 million for the program originally authorized in VAWA 2013 to support tribal efforts to implement SDVCJ. Seven tribes recently received awards from this program. DOJ will provide an update on the new program.

- **Access to Federal Criminal Information Databases and DOJ's Tribal Access Program (TAP)**

Participants will be given 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. DOJ recently announced it is expanding the program to serve additional tribes

- **Arrest Authority Guidance**

Participants will hear from DOJ and DOI about their efforts to develop guidance clarifying tribal arrest authority over non-Indians.

- **Health care costs for non-Indian inmates**

We will discuss the challenges tribes face covering health care costs for non-Indian inmates and possible options for managing costs.

4:15 – 5:00 p.m. **Discussion: Establishing a Tribal Domestic Violence Court or Docket**

Facilitator: Kelly Stoner, TLPI

During this session, participants will learn about tribal domestic violence courts or dockets and how they can be a useful tool for addressing domestic violence and implementing SDVCJ.

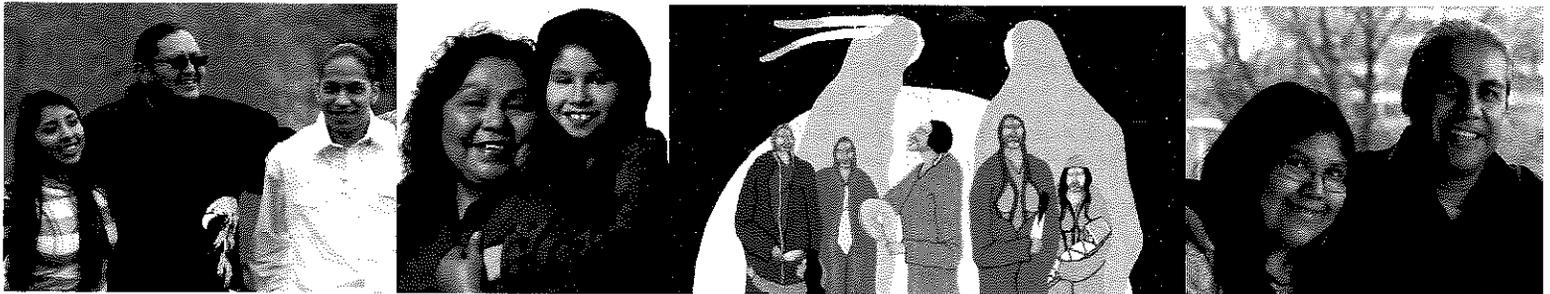
5:00 – 5:30 p.m. **Wrap-up and Next Steps**

OPTIONAL: There will be a tribal caucus meeting at 6pm in the Pasadena Room to prepare for the consultation on violence against Native women the following day.



NATIONAL INSTITUTE OF JUSTICE FIVE THINGS

ABOUT VIOLENCE AGAINST AMERICAN INDIAN AND ALASKA NATIVE WOMEN AND MEN



1. Most American Indian and Alaska Native adults are victims of violence.

More than four in five American Indian and Alaska Native adults (83 percent) have experienced some form of violence in their lifetime. That's almost 3 million people who have experienced psychological aggression or physical violence by intimate partners, stalking, or sexual violence.

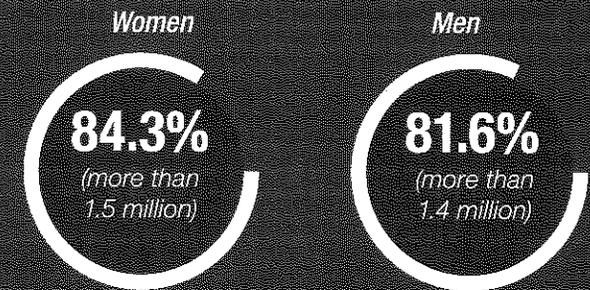
2. Men and women are victimized at similar rates but in different ways.

American Indian and Alaska Native women and men have been victimized at similar rates (84.3 percent for women and 81.6 percent for men). They have experienced similar levels of psychological aggression and physical violence by intimate partners. But women have experienced significantly higher levels of sexual violence (56.1 percent versus 27.5 percent for men) and stalking (48.8 percent versus 18.6 percent for men).

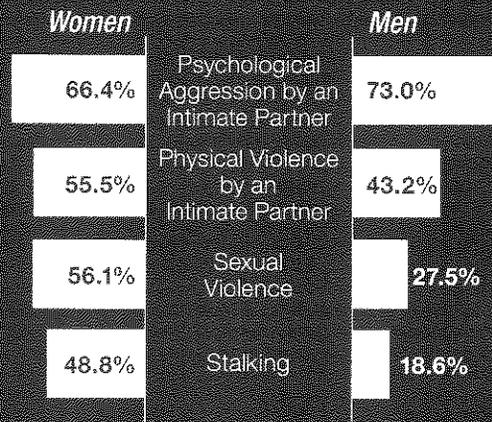
3. Victimization rates are higher for American Indians and Alaska Natives.

The lifetime victimization rate is 1.2 times as high for American Indian and Alaska Native women as for White women; for men, it is 1.3 times as high.

Percentages of American Indian and Alaska Native women and men who have experienced violence in their lifetime



Types of Victimization



4. American Indian and Alaska Native female victims are more likely to need services, but they are less likely to have access to those services.

More than two in five American Indian and Alaska Native female victims reported being physically injured, and almost half reported needing services. The services most commonly needed were medical care and legal services. Unfortunately, more than a third (38 percent) were unable to receive necessary services.

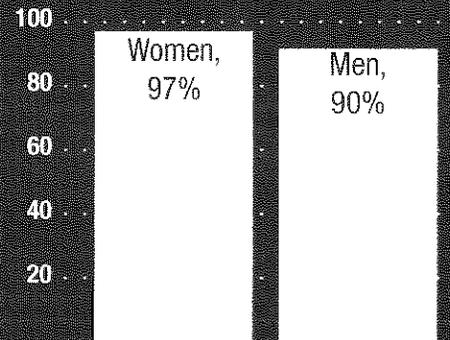
Research continues to highlight the disparities in health outcomes and access to health care for American Indians and Alaska Natives. These results highlight the need for additional services for American Indian and Alaska Native victims of crime — a need that was also documented in the Office for Victims of Crime’s *Vision 21: Transforming Victim Services — Final Report*.

5. For American Indians and Alaska Natives, interracial violence is more prevalent than *intra*racial violence.

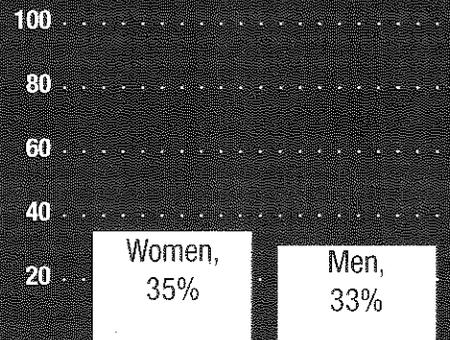
Although the exact number of victimizations per person is unknown, it is clear that most American Indian and Alaska Native victims have experienced at least one act of violence committed by an interracial perpetrator (97 percent of women and 90 percent of men). Fewer victims (35 percent of women and 33 percent of men) have experienced one or more acts of violence by an American Indian or Alaska Native perpetrator.

This finding offers strong support for the sovereign right of federally recognized tribes to criminally prosecute non-Indian perpetrators. Until recently, federally recognized tribes did not have this authority, even for crimes committed on tribal lands. This gap in jurisdictional authority provided immunity to non-Indian perpetrators and compromised the safety of tribal communities. The Violence Against Women Reauthorization Act of 2013 partially corrected this problem by providing special domestic violence criminal jurisdiction to federally recognized tribes. But more progress can be made to provide justice for American Indian and Alaska Native victims.

Percentages of victims experiencing violence by non-Indian perpetrators



Percentages of victims experiencing violence by American Indian or Alaska Native perpetrators



Learn more

Rosay, André B., *Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 2016, NCJ 249736.

NIJ.gov’s Tribal Crime and Justice page

Keywords: NIJ tribal

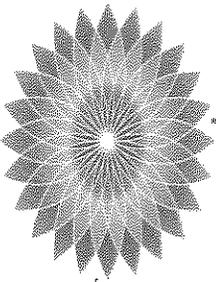
Findings and conclusions of the research reported here are those of the authors and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

NCJ 249815

May 2016

Photo Sources: Thinkstock, Hamilton Studios for We R Native, Fotosearch, Illustration by Sam English





CONSULTATION AGENDA

Renaissance Palm Springs Hotel

Government-to-Government Consultation on Violence Against American Indian & Alaska Native Women

DECEMBER 5, 2016

6:00 p.m.-9:00 p.m.

PALM SPRINGS, CA

TRIBAL CAUCUS MEETING

Located in the Pasadena room at the Renaissance Palm Springs Hotel

DECEMBER 6, 2016

7:30 a.m.-9:00 a.m.

REGISTRATION

Located in the Catalina/Madera Banquet Hall

9:00 a.m.-9:30 a.m.

WELCOME

Lorraine Edmo (Shoshone-Bannock), Deputy Director for Tribal Affairs, Office on Violence Against Women, U.S. Department of Justice

COLOR GUARD

San Manuel Band of Mission Indians, CA, staffed by Officer Erika Coil

TRADITIONAL OPENING /BIRD SONG

Bird Song presented by Anthony J. Andreas III (Agua Caliente Band of Cahuilla Indians), Council Member and the Pai nik tem Bird Singers led by Peter Arviso Jr.

SHAWL CEREMONY

Strong Hearted Native Women's Coalition
Germaine Omish-Lucero, Executive Director & Board members

WELCOMING REMARKS

Agua Caliente Tribal Council (Invited)

The Honorable Mary L. Resvaloso, Chairwoman, Torres Martinez Desert Cahuilla Indians

9:30 a.m.-10:00 a.m.

GOVERNMENT-TO-GOVERNMENT CONSULTATION

Co-Facilitators: Lorraine Edmo (Shoshone-Bannock)
OVW Deputy Director for Tribal Affairs

Eugenia Tyner-Dawson (Sac and Fox Nation)
Senior Advisor for Tribal Affairs, Office of Justice Programs

Marcia Good, Senior Counsel to the Director
USDOJ – Office of Tribal Justice

*PO's
Protection
orders*

CONSULTATION AGENDA

UPDATE FROM LAST CONSULTATION

Bea Hanson, Principal Deputy Director, Office on Violence Against Women,
U.S. Department of Justice

FEDERAL AGENCY INTRODUCTIONS

10:00 a.m.-10:30 a.m.

TRIBAL LEADER INTRODUCTIONS

10:30 a.m.-12:00 p.m.

TRIBAL LEADER TESTIMONY

12:00 p.m.-1:15 p.m.

WORKING DOJ LUNCH PRESENTATIONS

"A Healing Journey for Alaska Natives," presented by Leslie Hagen, National Indian Country Training Coordinator, U.S. Department of Justice

Violence Against American Indian and Alaska Native Women and Men, a video based on a study by Dr. André Rosay. This video describes the findings of an NIJ-supported study on the prevalence of violence against American Indian and Alaska Native women and men. (based on 2010 data from the National Intimate Partner and Sexual Violence Survey).

1:30 p.m.-4:30 p.m.

TRIBAL LEADER TESTIMONY (CONT'D).

4:30 p.m.-5:00 p.m.

TRADITIONAL CLOSING AND SUMMARY COMMENTS

The Honorable Juana Majel Dixon, Traditional Councilwoman, Pauma Band of Mission Indians

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*

