



TRIBAL DOMESTIC VIOLENCE *COURTS*

Fact Sheet



Tribal Domestic Violence Courts

WHAT IS A DOMESTIC VIOLENCE COURT?

Tribal domestic violence courts are specialized courts with targeted caseloads consisting of domestic violence cases. Tribal domestic violence courts are 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. Additionally, these courts focus on victim safety and batterer accountability by closely monitoring batterer compliance with court orders. There are various domestic violence courts models including:

(1) DOMESTIC VIOLENCE COURT MODEL COVERING BOTH CIVIL AND CRIMINAL CASES

- Domestic violence judge/court handling **both civil and criminal cases**
- Criminal domestic violence cases occurring in Indian country such as criminal protection orders; misdemeanor cases involving Indian defendants; felony cases involving Indian defendants if the tribe has implemented enhanced sentencing under the Tribal Law and Order Act; and criminal acts of domestic violence, dating violence or protection order violations involving non-Indian defendants and Indian victims where tribe has implemented special domestic violence criminal jurisdiction under the Violence Against Women Reauthorization Act of 2013;
- Civil cases where domestic violence is present including civil protection orders, divorce, custody, child support, paternity, visitation, child protective cases, guardianships and Indian Child Welfare Act (ICWA) matters.
- Child protective and juvenile justice matters if related to domestic violence.

(2) DOMESTIC VIOLENCE CRIMINAL COURT MODEL

- Criminal domestic violence judge/court handling **only criminal cases**
- Criminal domestic violence cases occurring in Indian country such as criminal protection orders; misdemeanor cases involving Indian defendants; felony cases involving Indian defendants if the tribe has implemented enhanced sentencing under the Tribal Law and Order Act; and criminal acts of domestic violence, dating violence or protection order violations involving non-Indian defendants and Indian victims where tribe has implemented special domestic violence criminal jurisdiction under the Violence Against Women Reauthorization Act of 2013.

(3) DOMESTIC VIOLENCE CIVIL COURT MODEL

- Civil/family domestic violence judge/court handling **only civil cases**
- Civil cases where domestic violence is present including civil protection orders, divorce, custody, child support, paternity, visitation, child protective cases, guardianships and Indian Child Welfare Act (ICWA) matters.

Resources and Help for Victims

- StrongHearts Native Helpline 1-877-7NATIVE or 1-877-762-8483
- National Domestic Violence Hotline
1-800-799-SAFE (7223)
1-800-787-3224 (TTY)
- The Rape Abuse Incest National Network
1-800-656-4673
- Alliance of Tribal Coalitions Against Violence (ATCEV)
1-888-577-0940
- National Indigenous Women's Resource Center
www.NIWRC.org
- Local program/shelter
- Call 911

For more information, please contact:


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TLPI Tribal Domestic Violence Courts Dockets Resources Webpage– www.TLPI.org/lists/dvcourts.html

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Special Domestic Violence Criminal Jurisdiction:

These specialized tribal dockets (and tribal domestic violence dockets) may serve as a platform for exercising Special Domestic Violence Criminal Jurisdiction (SDVCJ) over non-Indians committing certain domestic violence-related crimes in Indian country pursuant to section 904 of the Violence Against Women Reauthorization Act of 2013. Exercising SDVCJ may lead to safer tribal communities since 67% of American Indian/Alaska Native victims of rape or sexual assault describe the offender as non-Native. The race of the offender is critical since federal case law restricts a tribe's sovereignty to exercise criminal jurisdiction over non-Indian perpetrators unless the tribe has implemented SDVCJ under section 904 of VAWA 2013.

American Indians/Alaska Natives and Domestic Violence

- 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 will be victims of domestic violence during their lifetime

Possible Benefits of a Tribal 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
- 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.

Why Tribal Communities Should Consider Establishing a Tribal Domestic Violence Court

- The three possible tribal domestic violence court models described are just a few of the many different types of courts that can be developed to meet the needs of a particular tribal community.
- Tribal domestic violence courts are vital in exercising tribal judicial authority in a manner that focuses on victim safety, batterer accountability and healthy families utilizing tribal customs/traditions focusing on healthy tribal communities.
- 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. Social attitudes and justice policies supporting tribal sovereignty over the past several years have changed indicating that an increasing number of these incidents may likely reach tribal justice systems.
- Cases involving domestic violence are among the most complex and dangerous cases that courts may address.
- Tribal domestic violence courts provide continuity for victims and are distinguished by: designated domestic violence- trained court personnel; a community approach to victim services; and a commitment to batterer accountability .
- Research demonstrates that **both domestic violence courts and domestic violence dockets** can increase victim safety, reduce recidivism, and improve offender compliance with post-conviction supervision requirements.
- This specialized court is intended to address concerns of traditional domestic violence cases in which multiple judges and attorneys handle different aspects of a case, information is spotty and disjointed, monitoring of perpetrators is inconsistent, and victims coming through the court system are not linked systematically to any assistance.

Please see companion fact sheet on Tribal Domestic Violence Dockets