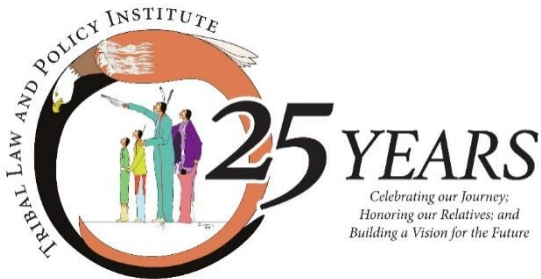


Violence Against Women Act 2022 “Special Tribal Criminal Jurisdiction” Covered Crimes Facilitated Discussion Series

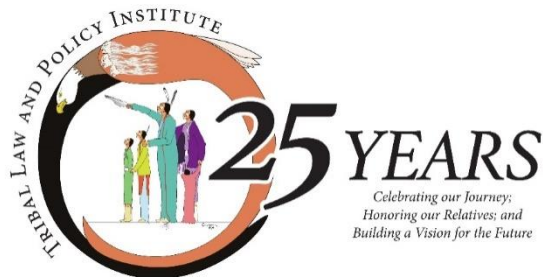
4th Facilitated Discussion: Child Violence and
other issues including Habeas Corpus and
Exhaustion of Tribal Court Remedies
July 15, 2022



Disclaimer: This project was supported by Grant No. 2019-IC-BX-K005 awarded by the Bureau of Justice Assistance (BJA). The BJA is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justices, The Office of Juvenile Justice and Delinquency Prevention, the Office of Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

The "Covered Crimes Facilitated Discussion Series" is presented by the Tribal Law and Policy Institute (home.TLPI.org) in collaboration with the Alliance of Tribal Coalitions To End Violence (ATCEV.org) and the National Congress of American Indians (NCAI.org).

Please note that Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice funds are being used to plan or host these facilitated discussions.



Facilitators

- ▶ Kelly Gaines Stoner, Victim Advocacy Legal Specialist, Tribal Law and Policy Institute
- ▶ Steve Aycok, Consultant, Tribal Law and Policy Institute

Panel Presenters

- ▶ Brent Leonhard, Attorney, Confederated Tribes of the Umatilla Indian Reservation
- ▶ Shannon Buchanan, Program Manager/Victim Advocate, The Muscogee Nation Family Violence Prevention Program

Overview

1. Overview of Violence Against Women Act (VAWA) 2013 and VAWA 2022
2. Child Violence
3. Child Violence Question and Answer Session
4. Habeas Corpus and Exhaustion of Tribal Court Remedies
5. Habeas Corpus and Exhaustion of Tribal Court Remedies Question and Answer Session
6. Panel Discussion
7. Question and Answer Session
8. Resources

This Zoom session may last for the full 2 hours if needed.

Empowering Tribal Nations

VAWA 2013 affirmed tribal **inherent authority** to exercise criminal jurisdiction over non-Indians who commit 1) domestic violence, 2) dating violence, or 3) violations of qualifying protection orders in Indian country.



VAWA 2022 built on this framework and added additional categories of criminal conduct that can be prosecuted against non-Indians in tribal court.

- ▶ Both VAWA 2013 and 2022 are amendments to the Indian Civil Rights Act (ICRA) that can be found at 25 USC §1304.
- ▶ **VAWA 2022 takes effect October 1, 2022.**

VAWA 2013: Required Sufficient Ties to the Tribal Community

1304(b)(4)(B) NO Special Domestic Violence Criminal Jurisdiction (SDVCJ) IF DEFENDANT LACKS TIES TO THE INDIAN TRIBE

A participating tribe may exercise special domestic violence criminal jurisdiction over a defendant only if the defendant—

- (i) **resides** in the Indian country of the participating tribe;
- (ii) **is employed** in the Indian country of the participating tribe; or
- (iii) **is a spouse, intimate partner, or dating partner of—**
 - (I) **a member** of the participating tribe; or
 - (II) **an Indian who resides** in the Indian country of the participating tribe.

VAWA 2022:

Sufficient Ties to the Tribal Community

A participating tribe may exercise special domestic violence criminal jurisdiction over a defendant only if the defendant—

- (i) ~~resides~~ in the Indian country of the participating tribe;
- (ii) ~~is employed~~ in the Indian country of the participating tribe; or
- (iii) ~~is a spouse, intimate partner, or dating partner of—~~
 - (I) ~~a member~~ of the participating tribe; or
 - (II) ~~an Indian who resides~~ in the Indian country of the participating tribe.

VAWA 2022 (H.R. 2471)

- ▶ Replaces the term “special domestic violence criminal jurisdiction (SDVCJ)” with “special tribal criminal jurisdiction (STCJ)” throughout the law.
- ▶ Introduces the term “covered crimes” to describe the conduct that can be prosecuted under tribal law in tribal courts.
- ▶ Changes WHAT can be charged in tribal court, and, in some instances, WHO can be charged in tribal court.
- ▶ To be located at 25 USC §1304 and **effective on October 1, 2022.**

VAWA 2022 (H.R. 2471)

Specifically, the VAWA 2022 amendments to 25 USC §1304:

- ▶ Removes the element of ‘violence committed’ from the definitions of dating violence and domestic violence;
- ▶ Removes the existing requirement under VAWA 2013 that limits tribal jurisdiction to those non-Indians who live or work in the Indian country of the tribe or are in a qualifying relationship with a member of the tribe or non-member Indian resident (often referred to as the “sufficient ties” provision);
- ▶ Clarifies that tribes in Maine can implement the law if they choose to do so; and
- ▶ Has Alaska-specific provisions.

Changes to WHAT can be charged in Tribal Court

Specifically, the VAWA 2022 amendments to 25 USC §1304:

- ▶ add categories of conduct that can be prosecuted in tribal court:
 - ✦ *domestic violence (2013)*
 - ✦ *dating violence (2013)*
 - ✦ *protection order violations (2013)*
 - ✦ *sexual violence (2022)*
 - ✦ *stalking (2022)*
 - ✦ *sex trafficking (2022)*
 - ✦ ***child violence (2022)***
 - ✦ *obstruction of justice (2022)*
 - ✦ *assaults against justice personnel (2022)*

Collectively these are referred to as “covered crimes.”

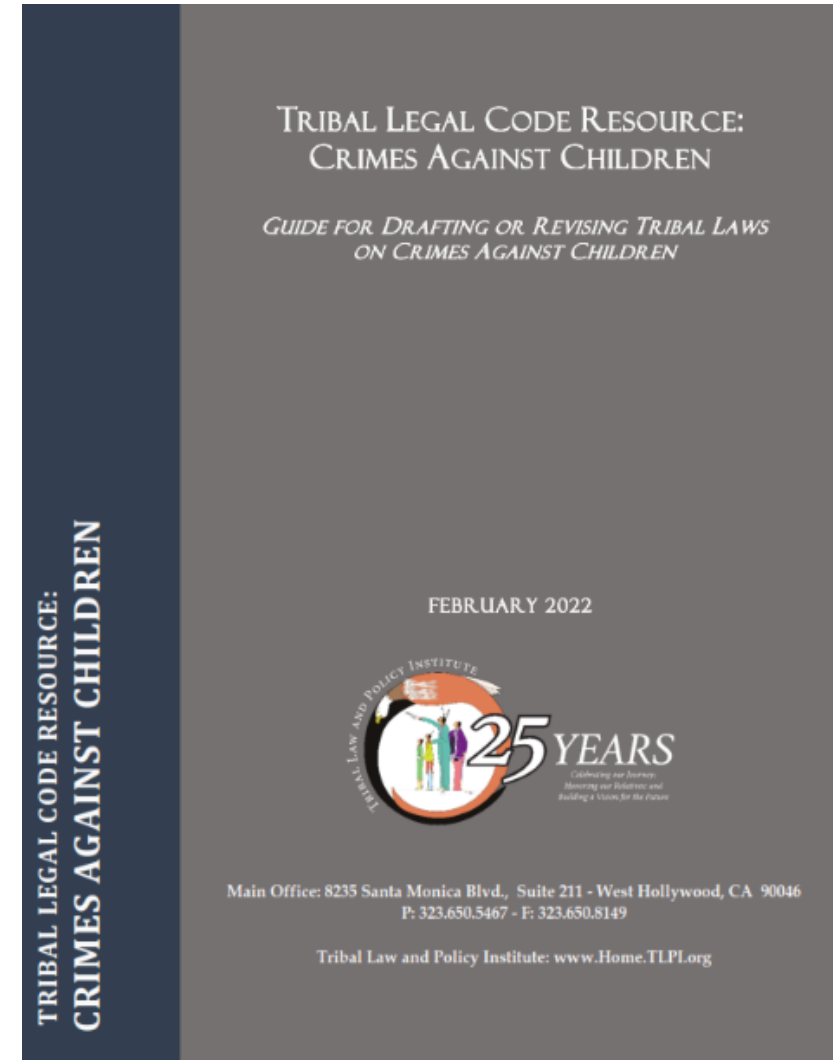
Changes WHO can be charged in Tribal Court in some instances

- ▶ A participating tribe may not exercise special tribal criminal jurisdiction over an alleged offense, . . . , if neither the defendant nor the alleged victim is an Indian.
- ▶ The crimes of Assault of Tribal Justice Personnel and Obstruction of Justice **DO NOT** require an Indian victim.
- ▶ The covered crime discussed today, **Child Violence DOES** require an Indian victim. These cases will involve an Indian victim and a non-Indian offender.

TLPI Crimes Against Children Resource

www.home.tlpi.org/files/ugd/3fb28d_9ea421b609e54db6a5f8eafd9e6b29f1.pdf

Guide for Drafting or Revising Tribal Laws on Crimes against Children (2022) is designed to provide a process for enacting a culturally-appropriate criminal code that addresses the victimization of tribal children. Content covered in this publication includes the effects of violence on children, protections for child victims during the criminal process, summaries of existing tribal criminal code provisions, and considerations for approaching tribal code development.



CHILD VIOLENCE

“Child Violence,” 25 USC 1304(a)(3)

The term “child violence” means the use, threatened use, or attempted use of violence against a child proscribed by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs.

Unpacking Words or Phrases

Essential words or phrases in the section:

- ▶ Use, threatened use or attempted use of violence (note that violence is not defined in 25 U.S.C. 1304).
- ▶ Against a child.
- ▶ Proscribed by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs.

Unpacking Definition of “Violence”

- ▶ VAWA 2022 does not define the term “violence.”
- ▶ We have talked extensively about this in the context of the VAWA 2013 definitions of "domestic violence" and "dating violence."

Federal Definition of “Violence” For Reference: “Use, Threatened Use or Attempted Use of Violence”

18 U.S.C. 16-Crime of Violence Defined.

The term “crime of violence” means—

- (a)** an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
- (b)** any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

VAWA 2022. Definition of “Child”.

The term “child” means a person who has not attained the lesser of—

(A) the age of 18; and

(B) except in the case of sexual abuse, the age specified by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs.



Points to Ponder

- ▶ The definition of “child violence” **does not require a connection to another “covered crime”**.
- ▶ The Defendant does not need to have any ties to the Reservation. Transient or visiting non-Indians are covered.
- ▶ The Defendant does not need any special relationship with the victim.
- ▶ Victim **MUST** be Indian.
- ▶ The violation of tribal law must have occurred in the tribe’s Indian country.



Tribal Codes

White Mountain Apache Criminal Code: Chapter 4*

Child Abuse; Definitions.

In this section, unless the context otherwise requires:

(1) “Abuse” means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or outward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist and which is caused by the acts or omissions of an individual having care, custody and control of a child.

** Code excerpts are provided as examples only and do not constitute legal advice. Tribal code provisions require an in-depth examination of the tribal laws, customs, traditions and justice goals.*

White Mountain Apache Criminal Code: Chapter 4* (cont.)

(2) “Child, youth or juvenile” means an individual who is under the age of Eighteen (18) Years of age.

(3) “Physical injury” the impairment of physical condition and includes but shall be limited to any skin bruising, bleeding, failure to thrive, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition which imperils a child's health or welfare.

(4) “Serious physical injury” means physical injury which creates a reasonable risk of death, or which causes serious or permanent disfigurement, or serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

** Code excerpts are provided as examples only and do not constitute legal advice. Tribal code provisions require an in-depth examination of the tribal laws, customs, traditions and justice goals.*

White Mountain Apache Criminal Code: Chapter 2*

Offenses, Section 2.83 Endangering The Welfare Of A Child

A. A person commits this offense by committing a crime of violence against a person of less than Eighteen (18) Years of age, or by recklessly exposing a person of less than Eighteen (18) Years of age to significant danger or physical harm.

B. Endangering the health or well being of a person of less than Eighteen (18) Years of age for whom the person has a legal duty of care, by willfully withholding food, or water, or shelter or prescribed medicines from such a person, or by threatening to do any of these things in order to coerce or induce such person to act, or refrain from acting, in a manner that the person has a legal right to act or refrain from acting.

** Code excerpts are provided as examples only and do not constitute legal advice. Tribal code provisions require an in-depth examination of the tribal laws, customs, traditions and justice goals.*

Standing Rock Sioux Tribal Code of Justice*

4-1204 Child Abuse (Criminal)

- 1) Any person who:
 - a) Threatens the child with serious bodily injury;
 - b) Inflicts bodily injury to the child to the extent the child requires medical attention;
 - c) Inflicts emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's normal range of performance or behavior with due regard to the child's culture; or
 - d) Intentionally physically assaults a woman who is pregnant
- Is guilty of child abuse.

** Code excerpts are provided as examples only and do not constitute legal advice. Tribal code provisions require an in-depth examination of the tribal laws, customs, traditions and justice goals.*



Points to Ponder

- ▶ Consider drafting definition of “violence”
- ▶ Review definition of “child”
- ▶ Consider drafting code provisions to protect a child victim during the criminal process:
 - ✦ Support person can be with child during the trial
 - ✦ Testimony by closed-circuit television
 - ✦ Child Victim’s Rights



Points to Ponder

- ▶ Review tribal code for possible statutes that might be used to prosecute “child violence”:
 - ✦ Criminal child endangerment
 - ✦ Criminal child abuse
 - ✦ Criminal child neglect
 - ✦ Assault/Battery

**Thank you to the tribes
whose codes were
mentioned.**

QUESTION AND ANSWER SESSION



HABEAS CORPUS AND EXHAUSTION OF TRIBAL COURT REMEDIES

25 USC §1303 (Original Right):

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

This is the original ICRA language.

25 USC 1304(e)(1-2) – Petitions to Stay Detention Added by VAWA 2013

1. In general.—A person who has filed a petition for a writ of habeas corpus in a court of the United States under section 203 [25 USC § 1303] may petition that court to stay further detention of that person by the participating tribe.
2. Grant of stay.—A court shall grant a stay described in paragraph (1) if the court—
 - (A) finds that there is a substantial likelihood that the habeas corpus petition will be granted; and
 - (B) after giving each alleged victim in the matter an opportunity to be heard, finds by clear and convincing evidence that under conditions imposed by the court, the petitioner is not likely to flee or pose a danger to any person or the community if released.

VAWA 2022 Changes

25 USC 1303 – **NO CHANGES**

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his **detention** by order of an Indian tribe.

VAWA 2022 Changes

25 USC 1304(e) – Petitions to Stay Detention

NO CHANGES

1. In general.—A person who has filed a petition for a writ of habeas corpus in a court of the United States under 25 USC § 1303 may petition that court to stay further detention of that person by the participating tribe.
2. Grant of stay.—A court shall grant a stay described in paragraph (1) if the court—
 - (A) finds that there is a substantial likelihood that the habeas corpus petition will be granted; and
 - (B) after giving each alleged victim in the matter an opportunity to be heard, finds by clear and convincing evidence that under conditions imposed by the court, the petitioner is not likely to flee or pose a danger to any person or the community if released.

VAWA 2022 Changes

New 25 USC §1304(f)

Petitions for Writs of Habeas Corpus.--

(1) In General.-- **After a defendant has been sentenced by a participating tribe**, the defendant may file a petition for a writ of habeas corpus in court of the United States under section 203 (25 USC §1303).



Points to Ponder

1303 – Habeas available **to any person** to test legality of detention.

1304(f) – After a person **has been sentenced**, they can file a 1303 writ.

1304(e) – Can ask for a stay of detention in a 1303 filing.

No 1303 and no stay of detention until after sentencing? Or can they file a 1303 writ at any time and also after sentencing? Or only after sentencing? When can they ask for a stay of detention?

VAWA 2022 Habeas Requirements

25 USC 1304(f)(2)

(2) Requirement.-- An application for a writ of habeas corpus **on behalf of a person in custody** pursuant to an order of a Tribal court shall not be granted unless --

(A) the **applicant has exhausted the remedies** available in the Tribal court system;

(B) there is an **absence of an available Tribal corrective process**; or

(C) circumstances exist that render **the Tribal corrective process ineffective** to protect the rights of the applicant.

28 USC § 2254 - State Custody; Remedies in Federal Courts

(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B)

(i) there is an absence of available State corrective process; or

(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

28 USC § 2254 - State Custody; Remedies in Federal Courts

(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State Tribal court shall not be granted unless it appears that—

(A) the applicant has exhausted the remedies available in the courts of the State Tribal court system; or

(B)

(i) there is an absence of available State Tribal corrective process; or

(ii) circumstances exist that render such process the Tribal corrective process ineffective to protect the rights of the applicant.



Points to Ponder

What does exhaustion mean under your law?

Are remedies exhausted after sentencing and motions for reconsideration?

After an appeal to the Tribal Court of Appeals?

After filing a Tribal Habeas and possible appeal?



Points to Ponder

25 USC 1303 - test the legality of his **detention**

25 USC 1304(f)(2) - on behalf of a person in **custody**

Detention is not Custody and often requires physical confinement.

Tavares v. Whitehouse, 851 F.3d 863, 871-873 (9th Cir.).

Some circuits have found “detention” absent physical confinement if there is a **severe and immediate restraint on liberty** but still recognize it as **different and more narrow than “custody”**. e.g., *Nygaard v. Taylor*, 2021 WL 47720122 (Dist. SD, 9/2021).

Custody is the broader term. But, if you are in custody, you can file a 1303 writ, but it only tests the legality of your detention.

25 USC 1304(e)(3) Added by VAWA 2013

NOTICE.—An Indian tribe that has ordered the detention of any person has a duty to timely notify such person of his rights and privileges under this subsection and under Section 203.

VAWA 2022 Changes

25 USC 1304(g)

Notice; Habeas Corpus Petitions.-- A participating tribe that has ordered the detention of any person has a duty to timely notify in writing such person of their rights and privileges under this section and under section 203.

Notice Changes

2013

NOTICE.—An Indian tribe that has ordered the detention of any person has a duty to timely notify such person of his rights and privileges under this **subsection** and under Section 203.

2022

Notice; Habeas Corpus Petitions.-- A participating tribe that has ordered the detention of any person has a duty to timely notify **in writing** such person of their rights and privileges under this **section** and under section 203.



Points to Ponder

Under VAWA 2013, what is the subsection?

1304(e)

Under VAWA 2022, what is the section?

1304

1304(d) reads: All applicable rights under this Act, if a term of imprisonment of any length may be imposed, all rights described in section 25 USC 1302(c); the impartial jury requirement, and all other rights necessary for Congress to pass the legislation.



Points to Ponder

What does your notice have to include?

All of 1302, 1303 and 1304? The whole ICRA?

How will you give this notice? It must be in writing!

Should you have the defendant sign for it?

When should you give it? Upon detention? At arraignment?

Both?

Tribal Codes

Habeas

Standing Rock Sioux Tribal Code of Justice

3-701. Who May File.

Any person whose liberty has been restrained by the Standing Rock Sioux Tribe may prosecute a civil writ of habeas corpus in Tribal Court to inquire into the cause of such restraint and, if illegal, to be delivered from such restraint.

3-702. Who May Not File.

Notwithstanding Section 3-701 of this Title, the following persons are not eligible to prosecute a writ of habeas corpus:

1. Convicted person who has appeal rights under Tribal law.*
2. Attacking a revoked deferred or suspended sentence.*
3. Already had a writ adjudged.*
4. Technical defect that does not affect substantial right.*

These four are paraphrased.

Habeas Tulalip Law and Order Code

5.7.2 Rights of the Defendant

In all criminal proceedings, the defendant shall have the following rights:

10) to petition for a writ of habeas corpus.

5.7.6 Writ of Habeas Corpus

1) Availability of Writ

a) Except as provided in subsection (1)(b), every person within the jurisdiction of the Tulalip Tribes imprisoned or otherwise restrained of liberty may prosecute a writ of habeas corpus to inquire into the cause of imprisonment or restraint and, if illegal, to be delivered from imprisonment or restraint.

b) The writ of habeas corpus is not available to attack the validity of the conviction or sentence of a person who has been adjudged guilty of an offense by a court of competent jurisdiction and has exhausted the remedy of appeal, nor is it available to attack the legality of an order revoking a suspended or deferred sentence. Moreover, a person may not be released on a writ of habeas corpus due to any technical defect in commitment not affecting the person's substantial rights.

Exhaustion

Standing Rock Sioux Tribe Code of Justice

3-707. Federal Habeas Corpus.

Before an individual may seek federal habeas corpus relief, she or he must first exhaust all available Tribal remedies.

Notice

Cherokee Nation Code Title 22 §70.2(c)

C. Notice - Any defendant detained under the provisions of this subsection, shall be notified of their right to file a petition for a writ of habeas corpus in a court of the United States.

Notice

Fort Peck Tribes Comprehensive Code of Justice Title 7 Chapter 2 Subchapter 2 § 249(d)

(d) Rights of Defendants. In any criminal proceeding under this section, the defendant shall be entitled to:

. . .

(4) timely notification of the right to petition for a writ of habeas corpus in a court of the United States under section 25 U.S.C. 1303, and the right to petition that court to stay further detention pursuant to 25 U.S.C. 1304(e);

Notice

Gila River Indian Community Code Title 5

§ 5.1810

5.1810. Notice of Right to File Petition in United States Court to Stay Detention.

A. The Community Court shall provide timely notice, not later than at the time of arraignment, to a person who has been ordered to any detention under this chapter of the following rights and privileges:

1. A person who has filed a petition for a writ of habeas corpus in a court of the United States under 25 U.S.C. § 1303 may petition that court to stay further detention of that person by the Community.

2. A court shall grant a stay described in paragraph (1) if the court:

a. Finds that there is a substantial likelihood that the habeas corpus petition will be granted; and

b. After giving each alleged victim in the matter an opportunity to be heard, finds by clear and convincing evidence that under conditions imposed by the court, the petitioner is not likely to flee or pose a danger to any person or the Community if released.



Points to Ponder

Does your code have a right to a Tribal Writ of Habeas Corpus?

Does your code require exhaustion of Tribal remedies? Does it have to?

Does your code provide for how and when written notice will be given?

Custody v. Detention

**Thank you to the tribes
whose codes were
reviewed.**

QUESTION AND ANSWER SESSION



What Tribal Governments Need to Do to Exercise STCJ under VAWA

All tribes should:

1. Ensure that nothing in the tribe's current constitution / code prohibits exercise of STCJ.
2. Consider the following questions:
 - ▶ What changes are needed to your Constitution or criminal code to establish jurisdiction, define crimes, and ensure due process requirements are met?
 - ▶ Are you giving notice **in writing** to detained defendant's of their rights (this is a new requirement under VAWA 2022)?
 - ▶ What training will be needed for justice system personnel and stakeholders to understand the tribe's exercise of jurisdiction over non-Indians?

If your tribe is NOT currently exercising jurisdiction over non-Indians under VAWA 2013 also ask:

- ❖ Does your tribe have a public defender program?
- ❖ Do your existing judges have the required training?
- ❖ What kind of facilities exist for incarceration?
- ❖ What types of changes are necessary to your jury system?
- ❖ How will you fund the necessary changes?

Panel Discussion

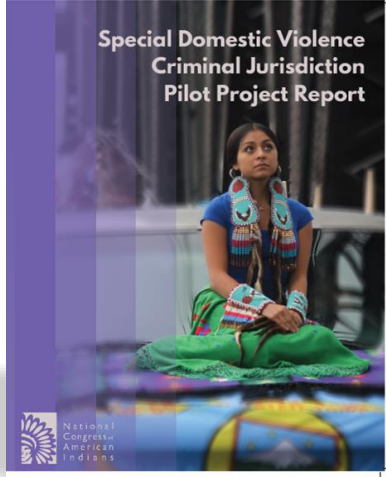
- ▶ Shannon Buchanan, Program Manager/Victim Advocate, The Muscogee Nation Family Violence Prevention Program
- ▶ Brent Leonhard, Attorney, Confederated Tribes of Umatilla Indian Reservation

QUESTION AND ANSWER SESSION



RESOURCES

VAWA Special Tribal Criminal Jurisdiction Resources



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HOME | OVERVIEW | SDVCJ TODAY | GET STARTED | RESOURCES | EVENTS |

VAWA 2013 Special Domestic Violence Criminal Jurisdiction Tribal Criminal Jurisdiction over Non-Indians

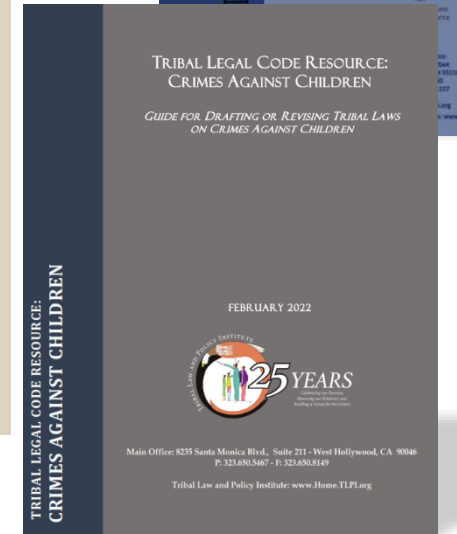
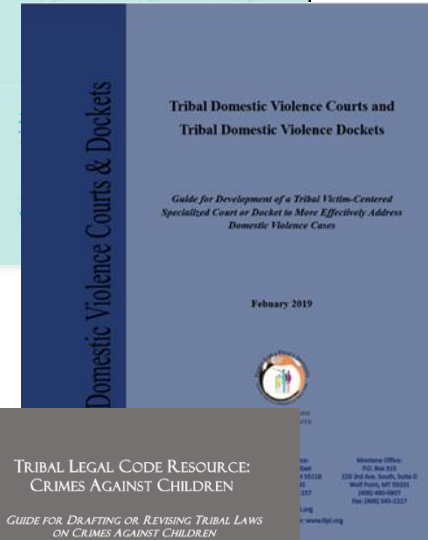
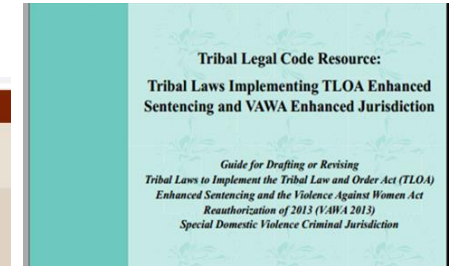
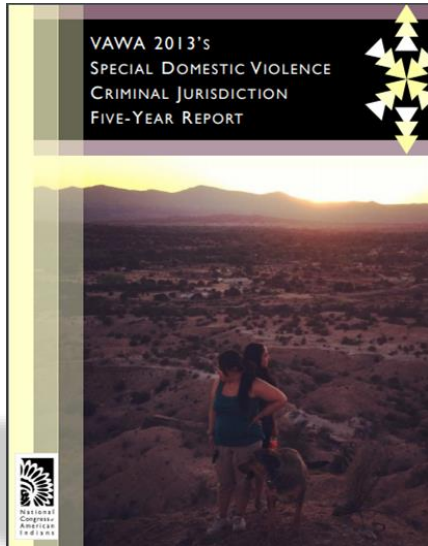
A Look at VAWA SDVCJ in the First Five Years

[Read Full Report Here](#)

VAWA 2013's SDVCJ Five Year Report

In the five years following the passage of VAWA 2013, 18 tribes began exercising Special Domestic Violence Criminal Jurisdiction. Learn about ...

[Read Full Report Here](#)



NCAI Tribal VAWA Resources: <http://www.ncai.org/tribal-vaawa>
TLPI Publications: www.Home.TLPI.org

TribalProtectionOrder.org



The screenshot shows the homepage of TribalProtectionOrder.org. At the top, there is a dark blue header with a circular logo on the left containing a scale of justice and the text 'TRIBAL PROTECTION ORDER RESOURCES'. To the right of the logo, the text reads 'TRIBAL PROTECTION ORDER RESOURCES' in large white letters, followed by 'An Online Resource for Drafting and Enforcing Tribal Protection Orders' and 'A Project of the Tribal Law and Policy Institute'. Below the header is a dark navigation bar with links for 'HOME', 'DRAFTING PROTECTION ORDERS', 'ENFORCING PROTECTION ORDERS', 'RESOURCES', and 'TRAININGS AND EVENTS'. The main content area has a light gray background and features a breadcrumb trail 'Home'. The title 'Home' is prominently displayed. The main text explains the website's purpose and provides three numbered sections: 1. 'What is a protection order?' which defines protection orders and their legal nature; 2. 'Why are tribal protection orders needed?' which lists statistics on violence against Native American women; and 3. 'What is the scope of tribal civil authority to issue and enforce protection orders?' which references the Violence Against Women Act (VAWA) 2013 Reauthorization. The page concludes with a partial sentence: 'For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the

WalkingOnCommonGround.org

The screenshot shows the homepage of WalkingOnCommonGround.org. At the top is a dark blue header with a logo on the left featuring a circular emblem with a feathered headdress and two mallets. To the right of the logo, the text reads "WALKING ON COMMON GROUND" in large white letters, with "RESOURCES FOR PROMOTING AND FACILITATING TRIBAL-STATE-FEDERAL COLLABORATIONS" in smaller white letters below it.

Below the header is a navigation bar with a light beige background and dark blue arrows on the ends. It contains the following links: Home, Background, About Us, Contact Us, Partners, and a search bar with a magnifying glass icon and a "GO" button.

The main content area is divided into three sections. On the left, there is a news article titled "Violence Against Women Act (VAWA) 2022" with a sub-headline "2022". The text below the headline reads: "On March 15, 2022, President Biden signed the Violence Against Women Act Reauthorization bill (VAWA 2022) as a part of the Omnibus ... [More](#)". To the right of the text is a photograph of a group of people, including tribal members in traditional dress, standing in a grand room with columns and a chandelier.

Below the news article is a horizontal row of 15 small circles, with the first one filled in orange. To the right of the news article is a vertical sidebar with five blue buttons with white text: News, Events, Promising Strategies, Resources/Tools, and Training and Technical Assistance.

Below the news article and sidebar is a horizontal navigation bar with a dark blue background and white text. It features a "Tribal-State Collaborations" button with a white arrow pointing right, followed by several other buttons: Judicial, Law Enforcement, Community Corrections/Detention, Multiple Agency Agreements, Child Welfare, and Other.

At the bottom of the page is a "SEARCH BY TRIBE:" section with a dark red background. It includes a search input field with a magnifying glass icon and a "GO" button. Below the search field is a dropdown menu with "Indian Nations" selected. To the right of the search field is a map of the United States with state abbreviations labeled on it.

“Overview of the Violence Against Women Act (VAWA) 2022”

The **Tribal Law and Policy Institute** (TLPI) - in collaboration with the **Alliance of Tribal Coalitions To End Violence** (ATCEV) and the **National Congress of American Indians** (NCAI) - has just released an VAWA 2022 Tribal Provisions informational webinar and **PowerPoint slides** that you can use for community education.

- ▶ Watch the recording here: <https://www.youtube.com/watch?v=9lw95uTAvGg&t=10s>
- ▶ PowerPoint: https://3fb28d6f-a96e-45cf-86bb-2bfb9f1b6453.usrfiles.com/ugd/3fb28d_42e1d75ddf614bfa98e7a615bbf60acc.pdf



WalkingOnCommonGround.org
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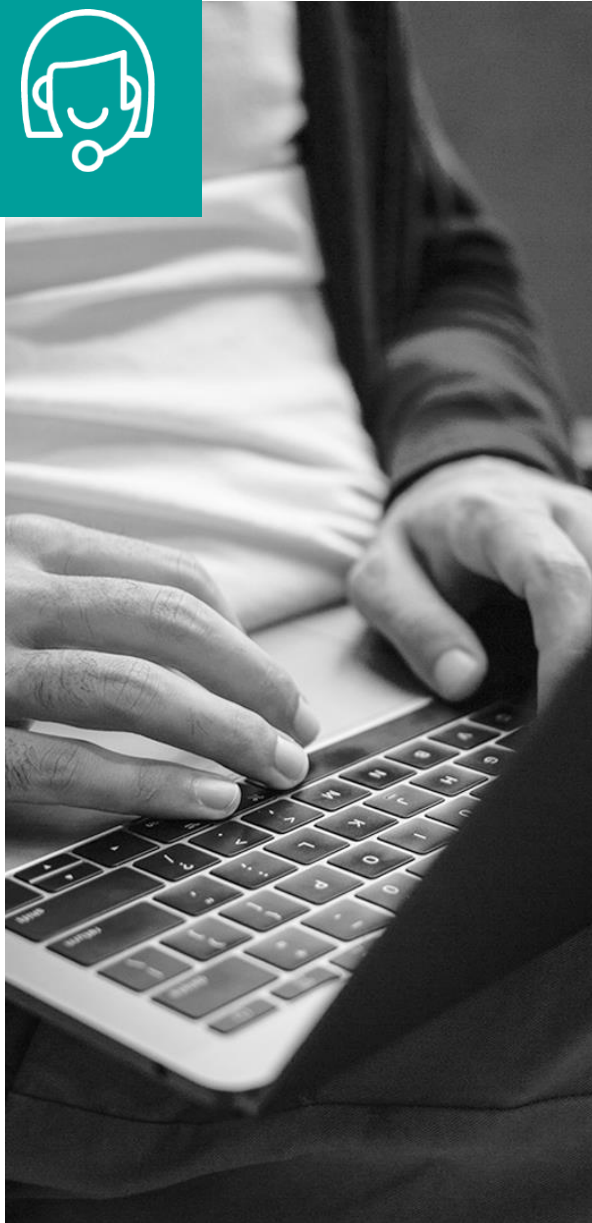
TRIBAL-STATE COLLABORATION PROJECT

**TLPI provides a Tribal-State
Intergovernmental Collaboration Project:**

This project provides training and technical assistance to develop, promote and enhance intergovernmental collaborations, with a special focus on judicial collaborations, such as joint jurisdiction courts, under a grant from the Bureau of Justice Assistance.

We seek to develop and foster collaboration among tribal-federal-state-local governments in order to improve the effectiveness of public safety and victims' services and reduce and combat crime in Indian country and nearby communities.

This project – currently funded under a grant from the Bureau of Justice Assistance - includes the WalkingOnCommonGround.org website which serves as a resource center for project resources and contains relevant law and policy updates for Tribal Healing to Wellness Courts.



▶ TLPI TRAINING AND TECHNICAL ASSISTANCE PROJECTS

Tribal-State Intergovernmental Collaboration

TLPI provides resources and training / technical assistance designed to enhance tribal-state intergovernmental collaborations and tribal justice systems. TLPI provides technical assistance to develop, promote, and strengthen tribal-state collaborations. This project also includes the development of community based tribal code drafting resources; development of Tribal Legal Studies textbooks; and providing resources for implementing both the Tribal Law and Order Acts “enhanced sentencing” provisions and the Violence Against Native Women Act “Special Domestic Violence Criminal Jurisdiction.” ***(Funded by: Bureau of Justice Assistance)***

Resources

Tribal Law & Policy Institute Resources: Tribal-State Court Collaboration Publications

<https://www.home.tlpi.org/publications>

**Tribal-State Court Forums:
An Annotated Directory, 2nd Edition**

Tribal Law and Policy Institute
Updated 2020



**Main Office: 8235 Santa Monica Blvd., Suite 211
West Hollywood, CA 90046
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www.Home.TLPI.org
www.WalkingOnCommonGround.org



Tribal-State Court Forums

**Crossing the Bridge:
Tribal-State-Local Collaboration**
William Thorne and Suzanne Garcia
Tribal Law and Policy Institute
February 2019

I. Introduction

How do we begin? When meeting with people who are looking to establish a collaborative project with a tribal government or a Native group, this question often comes up: "How do we begin?" In some jurisdictions, the question may be more properly "How do we pick it up again?" because previous attempts at collaboration had died on the vine or ended badly.

Why should we collaborate? This is another common question. Is it based in altruism, wanting to help those in need of assistance? Is it because there are mandates that we cannot ignore? Is it because we have experienced some guilt at the exclusion of tribes from collaborative partnerships? Is it because we have been approached or invited and are tempted to join? Collaboration may be part of a larger requirement to consult with tribes on issues that affect them. Most federal agencies have consultation policies, and many require state and local agencies that accept federal funds to consult with tribes on how those funds are used. Many states also have consultation policies. **Consulting and then collaborating to implement the innovations and solutions that are suggested is an indication of meaningful consultation.**

In some cases, the motivation to collaborate is the necessity of finding a solution to a persistent problem. For example, in northern California, a tribal judge wrote a letter to the chief justice of the California Supreme Court about a public safety issue he was facing. That one letter began a process that has created an ongoing relationship between the state and tribal judges in California, which in turn has led to collaboration in a growing number of


How can the collaboration overcome a history of inaction, animosity, and distrust?

Court Appointed Special Advocates (CASA) is a volunteer organization that seeks to provide a voice to children involved in the child welfare system of this country—one child at a time. Resources are rarely enough to meet all the needs and a network of programs have been developed that readily assist and share with other programs. More than a decade ago an effort was made to extend the program reach into Indian country. However, it was not that easy. After several years of attempting to partner with a county-based program, the neighboring tribal program gave up, observing that "they seem to let the bridge, connecting a handful of miles of roadway, prevent many of the non-Indians from coming onto the reservation. Almost like they were afraid." These people grew up in the same schools and lived close to each other, but the communities had almost nothing to do with each other.

This project was supported by Grant No. 2016-69-802 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Assessment, Monitoring, and Registration. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

**Promising Strategies:
Public Law 280**

March 2013



Promising Strategies

California Office: 8235 Santa Monica Blvd., Suite 211, West Hollywood, CA 90046, (323) 650-5467, Fax: (323) 650-8149


Massachusetts Office: 241 Main Ave., West Salem, MA 01980, (978) 684-1457, Fax: (978) 684-2157

Minnesota Office: 201 N. 5th Street, Suite 204, Minneapolis, MN 55401, (612) 545-4467, Fax: (612) 545-2227

Tribal Court Connections: www.tlpi.org

**Promising Strategies:
Tribal-State Court Relations**

March 2013



Promising Strategies

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Tribal Court Connections: www.tlpi.org

PUBLICATIONS

TLPI seeks to facilitate the sharing of resources so that Native nations and tribal justice systems have access to cost effective resources which can be adapted to meet the individual needs of their communities. As such, we are proud to offer free digital copies of TLPI publications, work product created through various grants and partnerships since 1996.

TLPI has created over 50 publications related to tribal justice systems. These publications, along with our many co-authored publications are all available for free download at www.Home.TLPI.org/Publications.

Publications By Topic:

- Child Abuse and Neglect
- Healing to Wellness Courts
- Juvenile Justice
- Public Law 280
- Sexual Assault
- Sex Trafficking
- Tribal-State Collaboration
- Violence Against Native Women

Publications By Series:

- Child Welfare Series
- Domestic Violence Series
- Indian Nations Conference Video Series
- Legal Code Development Series
- Promising Strategies Series
- Protocol Guide Series
- Tribal Legal Studies Textbook Series
- Video Resource Series
- Webinar Series

Previous Facilitated Discussions:

1st Facilitated Discussion ([April 22nd](#)) recording can be accessed at:
www.youtube.com/watch?v=EQKX1qAs1gl&t=19s

2nd Facilitated Discussion ([May 20th](#)) recording can be accessed at:
www.youtube.com/watch?v=AWPVvjrtDss

3rd Facilitated Discussion ([June 17th](#)) recording can be accessed at:
www.youtube.com/watch?v=8aG2PzSY2O4

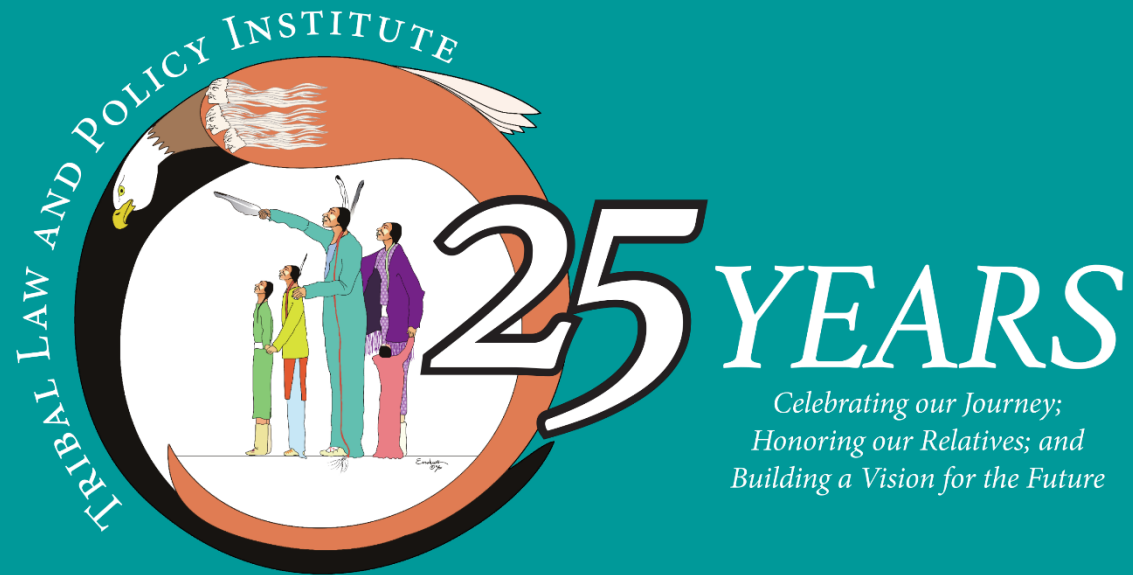
Upcoming Facilitated Discussions:

5th Facilitated Discussion ([August 19th](#)) will focus on:
Alaska Provisions *and* Sex Trafficking

Upcoming Event:

In Person ITWG Meeting: August 30 – 31, 2022 in Columbia, South Carolina

Thank you



*Celebrating our Journey;
Honoring our Relatives; and
Building a Vision for the Future*



CONTACT US



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