

Tribal Domestic Violence Courts and Special Domestic Violence Criminal Jurisdiction



Complementary Initiatives to Strengthen Tribal Justice Systems' Response to Domestic Violence

Responding to domestic violence more safely and effectively is a top priority for many tribal justice systems, especially given the high rates of domestic violence experienced by Native women¹. Strengthening the tribal justice response can take many, interrelated forms, but may include planning and operating a specialized Domestic Violence Court² as well as implementing Special Domestic Violence Criminal Jurisdiction (SDVCJ) under the Violence Against Women Reauthorization Act of 2013 (VAWA)³. VAWA enumerates several due process protections that must be in place for a tribe to implement SDVCJ, including a law-trained judge, defense attorneys, and maintenance of court records, and these requirements have substantial resource implications. However, these requirements can perhaps be more easily met by tribes that also operate a Domestic Violence Court, and once these practices are in place, they can in turn strengthen the operations of the Domestic Violence Court. The table below delineates the principles of the Domestic Violence Court model that complement and enable the SDVCJ requirements.

CONNECTIONS BETWEEN THE DOMESTIC VIOLENCE COURT MODEL AND THE SDVCJ REQUIREMENTS

Domestic Violence Court Principles	
1. Dedicated Court Docket	
<p>Scheduling all domestic violence cases for the same time period, such as one specific afternoon each week, is a hallmark of the Domestic Violence Court model.</p> <p>Coordinated calendaring has several benefits:</p> <ul style="list-style-type: none">■ It allows for the concentration of resources to the court whenever these cases are heard, including victim services and security personnel;■ It allows for participation by representatives from stakeholder agencies, such as programs that work with offenders; and■ It allows for litigants to observe how others' cases are handled by the court.	<p>Thinking about the requirements of SDVCJ, creating a dedicated docket facilitates the provision of law-trained defense attorneys to non-Native defendants, which is especially helpful when such resources are limited. If the tribe is contracting with just one or two defense attorneys, a dedicated docket will allow them to attend tribal court to represent all of their clients at a prearranged time and date, rather than traveling to the court numerous times throughout the week. Similarly, if the tribal court's judges are not all law-trained, having a dedicated docket makes it simpler to assign the law-trained judge(s) to preside over the SDVCJ cases. Lastly, if court reporting resources are limited, a dedicated docket allows for the court reporter to more readily document all SDVCJ cases since they are heard back-to-back.</p>

2. Staff and Stakeholder Specialization and Training

Given the inherent complexity and risk involved with domestic violence cases, it is critical for all court staff and stakeholders to participate in ongoing domestic violence training. Where possible, it's also helpful to have each stakeholder agency designate a representative to the Domestic Violence Court who can develop expertise in domestic violence, familiarity with the cases, and strong collaborative relationships with the other stakeholders. The same is true for judges—a designated Domestic Violence Court judge can handle these cases with more understanding of the dynamics of domestic violence and can make more informed decisions about each case. If law-trained, this designated tribal court judge can also hear all SDVCJ cases. Similarly, since they are assigned to all of the SDVCJ cases, the defense attorney(s) can develop their own domestic violence expertise and meaningful collaborations with other practitioners.

3. Resource Coordinator Role

One unique element of the Domestic Violence Court model is the Resource Coordinator. The Resource Coordinator, who may also be a tribal court clerk or administrator, plays several key roles in the court:

- Facilitating interagency collaboration and communication;
- Planning stakeholder meetings and training events;
- Assisting the court with identifying appropriate service mandates for litigants; and
- Compiling compliance information for the judge.

For tribes who are implementing SDVCJ, the Domestic Violence Court Resource Coordinator can assist with outreach to defense attorneys and law-trained judges (if not currently employed by the tribe) and can execute and maintain their contracts. The Resource Coordinator can also ensure that the court reporter is available whenever SDVCJ cases are heard.

4. Offender Engagement and Accountability

Domestic Violence Courts prioritize the safety and healing of survivors and their children. However, these courts share the complementary goal of engaging offenders in a change process and holding them accountable for the harm they've caused to their victims, children and the community. Providing each defendant with a defense attorney and documenting court proceedings both facilitate offender accountability. In addition to explaining legal rights and processes, defense attorneys can strengthen defendants' motivation to change their behavior by providing guidance and support while reiterating potential consequences for noncompliance and recidivism. In addition, thorough court records enable the judge and other court staff to review a defendant's court mandates and conditions, as well as their history of compliance and noncompliance with court orders. Such documentation facilitates informed decision-making by the judge throughout each case.

To access training, technical assistance and other resources on this topic, contact the Center for Court Innovation at dvinfo@courtinnovation.org.

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1. National Congress of American Indians Policy Research Center (2018). Research Policy Update: Violence Against American Indian and Alaska Native Women. Retrieved from: https://www.ncai.org/policy-research-center/research-data/prc-publications/VAWA_Data_Brief_FINAL_2_1_2018.pdf
2. For more information on the Domestic Violence Court model, see the Center's paper entitled, 'Combating Domestic Violence in Indian Country: Are Specialized Domestic Violence Courts Part of the Solution?' available at <https://www.courtinnovation.org/sites/default/files/documents/Combating%20Domestic%20Violence%20in%20Indian%20Country.pdf>
3. For an overview of SDVCJ and its requirements, see the National Congress of American Indians' VAWA SDVCJ webpage: <https://www.ncai.org/tribal-awa/sdvcj-overview>