



TRIBAL VICTIM SAFETY INITIATIVE:

"ENHANCING SERVICES FOR THE PROTECTION OF NATIVE AMERICAN VICTIMS ACROSS JURISDICTIONAL BOUNDARIES"

DISCUSSION GROUP REPORT AND FINDINGS



AUTHOR:

MICHELLE RIVARD PARKS
ASSOCIATE DIRECTOR
TRIBAL JUDICIAL INSTITUTE
AND SCHOOL OF LAW

Tribal Judicial Institute





FOREWORD

In December of 2007 the Tribal Judicial Institute (TJI), in cooperation with the Victim Advocacy Programs from the Spirit Lake Sioux Tribe, the Standing Rock Sioux Tribe, the Turtle Mountain Band of Chippewa, the Mandan Hidatsa and Arikara nations, and the Trenton Service Area, and funded by a federal grant from the Office on Violence Against Women through North Dakota Department of Health and the North Dakota Council on Abused Women's Services (NDCAWS), facilitated a gathering of tribal justice leaders to discuss various issues relating to cross jurisdictional enforcement and responses to domestic violence. The concept of the Initiative was to ensure an opportunity for tribal justice leaders and service providers who are working directly with native victims of domestic violence to discuss issues, obstacles and strategies that specifically relate to victim safety and offender accountability across jurisdictional boundaries. The platforms provided an opportunity for the tribes situated in North Dakota to have their voices heard and recorded on these very important issues and further provided an opportunity for the tribes to prioritize areas of concern and to strategize about best practices and strategies to address identified areas of concern. The intention was ultimately to provide a succinct list of problem areas, best practices and strategies from the vantage point of the tribes. The next steps will involve implementation of some of the identified strategies and to identify resources that exist across jurisdictional boundaries that can be utilized or developed in an effort to better ensure victim safety and offender accountability in domestic violence cases.

The success of this discussion and the strategies developed therefrom have been the direct result of the participation of the tribal justice leaders and tribal service providers who are working with and for native victims to attend, participate and lend their expertise. It is in a spirit of collaboration that next steps will be pursued by the coordinating agencies and programs.



BACKGROUND

In 2005 the North Dakota Department of Health received a grant from the Office on Violence Against Women Office through the Grants to Encourage Arrest and Enforcement of Protection Orders program. The North Dakota Council on Abused Women's Services, a nonprofit organization, was designated as the agency that would administer the grant. One portion of the grant focused on identifying cross- jurisdictional issues affecting native victims of domestic violence and the adaptation of consistent law enforcement response policies in tribal communities to improve upon multi-jurisdictional response to domestic violence.

The Tribal Judicial Institute was awarded a subcontract under the aforementioned project to, among other tasks, facilitate discussions and open a dialogue with the tribes situated in North Dakota to obtain a tribal perspective on the issues that are facing tribes and native American victims when they cross jurisdictional boundaries. The Tribal Judicial Institute (hereinafter "TJI") invited and coordinated a roundtable discussion among many individuals working in the tribal justice systems on each of the reservations. Specifically the TJI invited Tribal leaders, Tribal Judges, Court Personnel, Tribal Prosecutors, Law Enforcement,

Victim Advocates and other tribal service providers working with domestic violence victims.

Attendees Represented by Discipline:

*-one (1) Tribal Council Representative
-three (3) Tribal Judges
-three (3) Tribal Prosecutors
-four (4) Law Enforcement Officer(s)
-two (2) Tribal Court Personnel Reps
-three (3) Tribal Victim Advocates
-five (5) group facilitators/recorders*

The overall consensus among the participants who completed Program Evaluations was that the forum provided a good opportunity for participants to make their comments and have them

recorded. The evaluations resoundingly reflected a strong desire to use the platform as a springboard for future efforts to address cross-jurisdictional issues affecting Native American Victims of domestic violence. There was a strong consensus that there remains a need to develop concrete strategies to address identified issues and to have a concrete implementation plan for the same. *(See Appendix at PageA-1 for Complete Program Evaluation Results)*

PARTICIPATING TRIBES

There are a total of five (5) federally recognized tribes whose borders extend within the state of North Dakota. The Tribes include, the Mandan, Hidatsa and Arikara Nation, The Turtle Mountain Band of Chippewa, The Spirit Lake Tribe, The Standing Rock Sioux Tribe and the Sisseton Whapeton Band of Oyate. Additionally the Trenton Service Area is a federally recognized dependent Indian community. For purposes of this report and the roundtable discussions that supported its development, the Sisseton-Whapeton Tribe was not a participant primarily because the victims service providers for that Tribe have participated in the coalitions in the state of South Dakota rather than North Dakota, and therefore, while the tribe may benefit from some of the strategies developed as a result of the roundtable they were not roundtable participants.

Below are photos taken during the Roundtable discussions on December 14, 2007:





THE MANDAN, HIDATSA & ARIKARA NATION

The Tribal Justice System:

Court Structure:

- The Tribal Court is a Court of general jurisdiction
- There are three distinct divisions within the Tribal Court namely: Criminal, Civil, Juvenile and Family
- Judges Serve by Appointment
- A total of two Judges are seated

Applicable Laws:

- Constitution & Bylaws of the Mandan, Hidatsa and Arikara Nation
- Mandan, Hidatsa and Arikara Tribal Code
- Applicable tribal, and federal laws and ordinances

The Mandan, Hidatsa and Arikara Nation is governed by six (6) elected officials who comprise the Mandan, Hidatsa and Arikara Nation Tribal Business Council. The Tribe provides a number of services to the community and to victims of crime. Specifically, the Fort Berthold Coalition Against Domestic Violence, a not-for-profit organization located within the exterior boundaries of the Fort Berthold Reservation, provides services for victims of abuse. The Coalition serves close to 200 women each year, and services include, but are not limited to victim advocacy, access to safe shelter, financial assistance, and counseling services to victims.

The Fort Berthold Coalition against Domestic Violence works diligently on issues facing victims within the tribal community and across jurisdictional boundaries. The Coalition has an individual who is designated to serve as a Board Member for the North Dakota Coalition on Abused Women's Services (NDCAWS), and currently the Coalition's Director serves as the President of the Tribal Subcommittee for NDCAWS.

THE TURTLE MOUNTAIN BAND OF CHIPPEWA

The Tribal Justice System:

Court Structure:

- The Tribal Court is a Court of general jurisdiction
- Judges Serve by Election
- A total of three Judges are seated
- The Tribal Court and Tribal Council are separate branches of government according to the Tribal Constitution

Applicable Law:

- Constitution and Bylaws of the Turtle Mountain Band of Chippewa Indians
- Turtle Mountain Band of Chippewa Compiled Code(s) and Ordinance(s)
- Applicable tribal and federal laws and ordinances
- The Tribe has a comprehensive domestic violence ordinance

A legislative branch consisting of nine (9) elected officials designated as the Tribal Council governs the Turtle Mountain Band of Chippewa. The Judicial Branch of the tribal government consists of three Judges, all of whom serve by election. Tribe provides an array of direct services for victims which victims often access through Hearts of Hope, the primary victim services program on the reservation.

Hearts of Hope has been providing culturally relevant services and shelter for victims since 2002. Domestic Violence is the second highest reported crime on the reservation and response to this problem the tribal government has set a primary goal to reduce family violence by amending laws and protocols, promoting awareness and prevention strategies, developing a coordinated community response, providing emergency shelter and providing rehabilitative services for offenders. Like the other tribally based victim advocacy service providers, Hearts of Hope also occupies a seat on the board for the North Dakota Coalition on Abused Women's Services.

THE TRENTON SERVICE AREA

The Tribal Justice System:

- The Trenton Service Area is federally recognized
- Law Enforcement Services are provided through County Sheriff's Office(s)

COURT STRUCTURE:

- No functioning Tribal Court
- Court services are provided through the county

APPLICABLE LAW:

- North Dakota Century Code

The Trenton Service area is a distinct Indian Community that is federally recognized but does not have a reservation land base. As a direct result of this fact the Trenton Service Area typically relies on cooperative efforts with county law enforcement to meet many of the law enforcement and safety needs of Native American Victims. Within the Trenton Service Area the Domestic Violence and Sexual Assault Program was developed in an effort to provide culturally relevant services for Native American Victims in the service area.

The Trenton Service Area Domestic Violence and Sexual Assault Program is a non-profit that is working directly with community members and outside of the general service area to improve services to Native American victims of abuse. The Program's Director is an active member of the North Dakota Coalition on Abused Women's Services.

THE SPIRIT LAKE TRIBE

THE TRIBAL JUSTICE SYSTEM:

COURT STRUCTURE:

- The Tribal Court is a Court of general jurisdiction
- Judges Serve by Appointment
- A total of two Judges are seated

APPLICABLE LAW:

- Spirit Lake Tribe Constitution and ByLaws
- Spirit Lake Tribe Law and Order Code
- The Tribe has domestic violence provisions in the criminal code

The duly elected Tribal Council consisting of six (6) elected officials governs the Spirit Lake Tribe. The Spirit Lake Victim Assistance Program provides victim advocacy services. The Program provides direct services such as counseling, shelter services and victim advocacy to Native American victims. The Program is currently comprised of a Program Director, one full time advocate, and a Special Domestic Violence Investigator. The program itself and the personnel costs associated with the program are supported through federal and state grant programs. In recent years the program has also provided the community with a Special Domestic Violence Prosecutor as well as a Domestic Violence Compliance Officer, however due to non-renewal of grant funds these positions are currently not a part of the program.

The SLVAP works actively on culturally relevant community education initiatives, providing advocacy for victims and working with tribal courts and tribal programs to address and improve upon victim safety initiatives and offender accountability initiatives. The SLVAP also has an individual who is designated to serve as a Board Member for the North Dakota Coalition on Abused Women's Services.

THE STANDING ROCK SIOUX TRIBE

THE TRIBAL JUSTICE SYSTEM:

COURT STRUCTURE:

- The Tribal Court is a Court of general jurisdiction
- Judges Serve by Appointment
- A total of two Judges are seated

APPLICABLE LAW:

- Standing Rock Sioux Tribe Constitution and Bylaws
- Standing Rock Sioux Tribe Law and Order Code
- The Tribe has domestic violence provisions in the Code but no comprehensive domestic violence ordinance

The Standing Rock Sioux Tribe is governed by the Tribal Council, which consists of seventeen (17) elected officials. The Standing Rock Sioux Reservation borders extend across the North Dakota and South Dakota state line. As a result of this there are victim service provider(s) organized and operating on the South Dakota side of the reservation, namely Pretty Bird Woman House, however meeting the needs of victims on the North Dakota side of the reservation have been reportedly more challenging. While the victim advocacy organization offering services on the South Dakota side of the reservation will work with Native American victims on both sides of the reservation, there are some logistical challenges in terms of accessing services for victims off the reservation.

In recent years the Abused Adult Resource Center located in Bismarck, North Dakota has provided outreach services on the reservation, however funding constraints have significantly reduced their presence on the reservation. Tribal efforts are underway to meet the service and advocacy needs of victims of abuse on the reservation.

THE PROCESS

In an effort to offer a setting that enabled participants to openly communicate and actively participate in the discussions the process that was utilized at the roundtable discussions involved plenary session(s) which provided participants with an introduction to the North Dakota Council on Abused Women's Services, the Grants To Encourage Arrest initiative, the goal of the roundtable discussions, and the topics that would be addressed.

Introductory presentations also included a platform for the recently formed First Nations Alliance to introduce the purpose and function of the recently established coalition, its members, and some of the long and short-term goals of the Alliance. The Introductions session also provided the various tribal victim services organizations to introduce their organizations, contact information and the services that they provide to their respective communities.

At the conclusion of the introductory session(s) and opening plenary session(s), the larger group entered into discussion about the topic of Full Faith and Credit. Following the morning sessions, the participants were divided into two smaller working groups based upon their respective disciplines to discuss cross deputization, coordinated community response and adaptation of model domestic violence response policies. Group 1 was comprised of Tribal Leader(s), Tribal Judges and Tribal Prosecutors and Group 2 was comprised of Victim Advocates, Law Enforcement and Court Personnel. Group discussion was free flow in nature and as comments were made a written record was maintained and projected onto a screen so that participants were able to view the record and clarify or otherwise comment to ensure that ideas and comments were accurately recorded. Participants were further asked to prioritize identified issues and strategies in terms of their importance and for purposes of developing long and short term strategies.

THE TOPICS AND ISSUES DISCUSSED

Topics and Issues that were discussed and identified in the agenda were discussed in accordance with the Grants to Encourage Arrest project specifications. The North Dakota Council on Abused Women's Services has a focus that extends not only to victimization issues at the state level but also to victimization issues relating to Native American. This is reflected in the fact that NDCAWS itself has voting positions for tribal designees and has further developed a Tribal Issues Subcommittee in an effort to identify issues wherein the NDCAWS resources or assistance may be of value or service to Native American victims both on and off the reservation.

During the discussion groups, facilitators were careful to focus discussion efforts on cross-jurisdictional issues impacting tribes in so far as the identified topics were concerned. While some discussion was had relating to the services provided and available to Native American victims within tribal communities, the focus groups really maintained discussions relating to issues impacting Native American Victims when they cross jurisdictional boundaries either from one tribe to another or from their respective tribal communities to states communities. The idea behind this approach of course, being that when it comes to addressing issues affecting Native victims within their respective communities such discussions would be more appropriately had within each tribe rather than in a larger gather such as this. To presume that tribes require outside facilitation for issues affecting tribal members in their respective communities would undoubtedly be offensive to existing tribal political processes not to mention unnecessary absent a formal request from the tribe.

DISCUSSION SUMMARY AND FINDINGS

I. FULL FAITH AND CREDIT

THE COMMENTS

The Group first discussed what Full Faith and Credit seemingly means to state and tribal justice system personnel, not only in terms of legal definition(s) of application. There seemed to be some question as to whether Full Faith and Credit determinations should be made by the first responders (ie. Law enforcement) or is this solely a determination to be made by the courts (ie. Through recognition of foreign orders).

- Lack of Law Enforcement training leads to problems leading to Full Faith and Credit
- Tribes have recognition of foreign judgments provisions and some such as Turtle Mountain have emergency provisions pertaining to enforcement
- Full Faith and Credit problems are more apparent in the counties that have less contact with the reservation and tribal members
- Some issues with effectuating Full Faith and Credit for tribal court orders results from titles/language in tribal court orders
- Lack of access to law enforcement databases for tribal law enforcement to enter tribal court orders is a problem internally, between tribes and between tribes and states
- Currently the tribal law enforcement agencies have access to NCIC but aren't able to enter their Protection Orders into the system
- In terms of effectuating Full Faith and Credit at with state law enforcement, personnel turnover through sheriff's dept. is an issue
- An overall lack of understanding about the tribal justice system often results in a lack of enforcement of tribal court protection orders
- There is a lack of education about tribal justice systems in higher education curriculums
- There is a lack of understanding of tribal justice systems with private attorneys and judges at the state level
- Many of the state judges do not understand the Indian Child Welfare Act and other specific laws that apply to tribes
- Tribal orders are being kicked back from the state because they are deficient in terms of the language they contain, the title of the orders or the terminology being included
- Many tribal code provisions that mirror federal and state law
- community awareness within tribal communities as to the need for standardized forms may be an issue
- Oftentimes there is resistance to cooperating with the state

PRIORITY AREA(S)

The Group identified the following areas of priority, in order of importance and drawing from the comments made during the larger group discussion(s):

- 1) Provide education on Full Faith and Credit with respect to Orders of Protection for state and tribal officials including:
 - Law Enforcement
 - Attorneys
 - Judges
 - Court Personnel
 - Social Workers
 - First Responders (EMT's, nurses, doctors, etc.)
 - Tribal CouncilTraining should focus on:
 - VAWA
 - Jurisdiction
 - Tribal Justice Systems
 - Full Faith and Credit
 - Technology Technical Assistance
 - Basic procedure
- 2) Connectivity of tribes. In addressing connectivity there is a need to focus on:
 - Planning efforts
 - Assessment of needs to implement connectivity strategies
 - Equipment needs to implement connectivity strategies
- 3) Standardizing forms (cover sheets on DV orders)
- 4) Standardizing language of DV orders
- 5) State Tribal Court Judges Forum should focus on discussing some of the above issues and promoting education about tribes and tribal justice systems
- 6) Accessing NCIC

PROPOSED STRATEGIES AND CONSIDERATIONS

To address Full Faith and Credit Problems the group felt stated that it would be valuable to:

- 1) Provide Training for state and tribal justice system personnel and service providers on VAWA, Full Faith and Credit and the role, function and authority of tribal justice systems. Platforms to address training and education might include:

- a) North Dakota Supreme Court State and Tribal Court Committee; b) state law enforcement training(s) (many of which are attended by tribal law enforcement officials; c) the annual GTEA training; and
- 2) Create and implement standardized forms for implementation of tribes. Specific focus should be on development and implementation of template Protection Order facesheets and template protection orders. It is important that such templates be developed in a manner that is mindful of the unique and sovereign status of each laws and is respectful of the fact that the tribes have different laws applicable to these cases, therefore such templates must include open sections that enable each tribe to include provisions that are unique to each tribe.
 - 3) Connect tribes electronically through established or newly developed databases. Connecting tribes on an intertribal would be a good starting point.
 - 4) Approaching higher education institutions about including tribal justice systems in their curriculum

II. CROSS DEPUTIZATION

The Group(s) discussed the need for cross deputization and whether such efforts might be beneficial to their respective communities. Many of the Tribes have seemingly contemplated this issue over the years and therefore discussion on this issue was not very extensive.

COMMENTS

- Two of the tribes report that the BIA criminal investigators are cross-deputized but are really used on a request only basis
- Tribe(s) have a good working relationship with county sheriff but the relationships is not formal among the tribal officers and county law enforcement officers
- It is questionable whether the tribe(s) would support efforts regarding cross deputization but it may be beneficial
- There is some question as to the real impact of cross deputization since counties lack the resources that would be required to respond to on reservation cases
- Cross deputization might improve accountability for non Indian offenders especially in incidents where federal authorities fail to act
- Enabling tribal police to make arrests for potential federal cases would be beneficial
- Lack of mutual respect between state and tribal law enforcement agencies might make the process difficult to implement
- There are some liability issues with cross deputization
- Arrest authority is prohibitive to more cross deputization
- One big Problem is that the North Dakota Century Code does not recognize tribal law enforcement officers in the same way as other law enforcement personnel
- There are also respect issues from the federal agencies regarding tribal law enforcement
- Amendments to state law that would enable tribal law enforcement officers to get licensed would eliminate questions of cross deputization

PRIORITY AREA(S)

The Group(s) identified the following area(s) of priority, in order of importance based upon the discussions:

- 1) Improving the recognition and respect for Tribal Law Enforcement Officers by state and federal law enforcement.

- 2) Creating or adapting a model policy for tribal law enforcement officials that would address accountability measures and cooperative efforts relating to non-Indian offenders.
- 3) Tribal Leadership and State Leadership need ongoing education with respect to cooperative efforts with outside jurisdictions and the benefits that would come from cooperation; and

PROPOSED STRATEGIES AND CONSIDERATIONS

To improve upon cooperation and to further improve upon accountability issues relating to non-Indian offenders:

- 1) Enable Tribal Law Enforcement Officers to become “licensed” so long as they complete the requisite training. This would require an amendment to the North Dakota Century Code.
- 2) Adapt a tribal DV response policy for law enforcement so that there is consistency in terms of cross-jurisdictional cooperation.
 - First Nations Alliance could work to adapt a model policy that might work on each reservation
- 3) Ongoing Education through training events and conferences that focuses on cooperative law enforcement efforts.
 - Perhaps this could be addressed through the curriculum development for the annual GTEA conference.

III. COORDINATED COMMUNITY RESPONSE

There was initially some discussion among the group(s) as the meaning of a coordinated community response (hereinafter “CCR”). The Group consensus was that a CCR included active efforts through a multidisciplinary approach that included a wraparound services when responding to reported incidents of domestic violence and sexual assault.

COMMENTS

- Each of the tribes reported that there is a CCR in their community although for some of the tribes it is an informal rather than formal CCR procedure. The same is true for CCR where off reservation providers are involved.
- It is necessary to establish a CCR between the states and the tribes
- The state could help with what services are available in responding to incidents of domestic violence and sexual assault, but the state needs to avoid the pressure tactics especially in investigation
- It would be helpful to engage in discussions to promote tribal and state agencies working together to better serve victims
- Goes back to education about tribal versus non-tribal victims of crime.
- Ideally the CCR would extend beyond an isolated location and be more comprehensive and expensive.

PRIORITY AREA(S)

Priority Areas identified during the discussions are set forth below:

- 1) it would be helpful to establish CCR measures that include neighboring communities
- 2) It would be helpful to create formal CCR policies that would incorporate tribal and non tribal entities
- 3) Education needs to be included as a component to assist jurisdictions in identifying their respective roles in addressing and responding to reported incidents of domestic violence and sexual assault.

PROPOSED STRATEGIES AND CONSIDERATIONS

In an effort to address and respond to the above-identified priority areas strategies and considerations might include:

- 1) Facilitating discussions with tribes and neighboring jurisdictions to identify resources, and establish cooperative CCR's to deal with services to victims and offender accountability.
 - The First Nation's Alliance and NDCAWS would be excellent forums to conduct such meetings and open a dialogue on how to effectuate such cooperative measures
- 2) Education through training events, public forums or conferences need to address specific issues relating to domestic violence and sexual assault responses and the role that each jurisdiction has in protecting victims and holding offenders accountable.
 - Such education could occur through curriculum development for the annual GTEA conference and/or through such forums as the North Dakota Supreme Court Tribal and State Court Committee.

IV. ADAPTATION OF MODEL DOMESTIC VIOLENCE RESPONSE POLICIES

The Group(s) spent a significant amount of time discussing the need for and adaptation of model domestic violence response policies among the tribes. There was a significant amount of discussion about the feasibility of such an effort primarily due to the unique legal, demographic and resource based landscape of each participating tribes. Each of the tribes is in a very different place in terms of their law enforcement and service based capabilities, technological capabilities and their codified domestic violence and sexual assault codes. The very fact that these difference exists makes it extremely challenging to develop and implement a comprehensive model policy that would work for each community, however the group did propose some procedures that might be implemented to maximize the success of such a project.

COMMENTS

- There is a need to develop some sort of consistent policy among tribes due to: limited access by tribes to offender programs, parenting classes, anger management classes, batterers reeducation
- Once policies are developed or adapted the judiciary has a problem when law enforcement does not follow proper procedure, which is good in that it creates consistency but can be problematic if policies are not followed as it can jeopardize the prosecution of cases.
- Must work/ train together with law enforcement to ensure policies are followed correctly
- Policies are essential for all parties involved in the DV process as they save lives, create consistency in response measures, improve prosecution rates and reduce expenses relating to prosecution
- One concern is that loopholes can endanger the victim if policies are poorly written
- If a policy is developed it can only be effective if the tribes have the ability to enforce the policy
- Model policies might be difficult because they do not account for custom and tradition
- It would be beneficial to cooperate with the state for victim safety
- Policies would help to recognize orders between tribal/ state court for the benefit of community/ victims
- Policies that are implemented across jurisdictional lines would enable victims to access resources of the state which might not be available to the tribe(s)
- Developing policies would assist the tribes to overcome the misconceptions that exist regarding tribal court systems. It would also improve accessibility misconceptions for nonmembers.
- Model DV policies might be a good starting point but the policies would need to be modified to meet tribes needs. Each tribe could easily implement new policies without BIA approval as the BIA enforces tribal law as do tribal law enforcement agencies.

PRIORITY AREA(S)

In terms of creating or adapting a model policy for domestic violence response the group consensus was that such efforts should occur gradually with the tribes cooperating to create consistent response measures first before coordinating such policy based efforts with neighboring state law enforcement. That said the group did acknowledge that while creating consistent policies would be challenging in light of the differences that exist among the tribes, there would be a lot of benefits for victims were such an effort come to fruition. Based upon the discussions the following priority areas were identified in relation to model policy development, adaptation and implementation:

- 1) Tribes need to work together to develop consistent domestic violence response measures that would be conducive to the creation and adapted versions of a model policy.
- 2) Policy makers need to be educated on the dynamics of domestic violence and the need for consistent policies.

PROPOSED STRATEGIES AND CONSIDERATIONS

- 1) Develop a template for tribal domestic violence response measures that tribes can adapt internally within their respective communities to address unique status and situation of each tribe.
- 2) Tribes need to develop and/or incorporate the use of protection order facesheets to facilitate consistent sharing of information and to improve the recognition of tribal orders by other jurisdictions.

Educate and train tribal/ leaders and policy makers through the development of a policy development and implementation curriculum that could be incorporated into the GTEA annual conference and/ or North Dakota Supreme Court Tribal State Court Committee Meeting or other policy based forums wherein tribal and state policy makers work cooperatively.

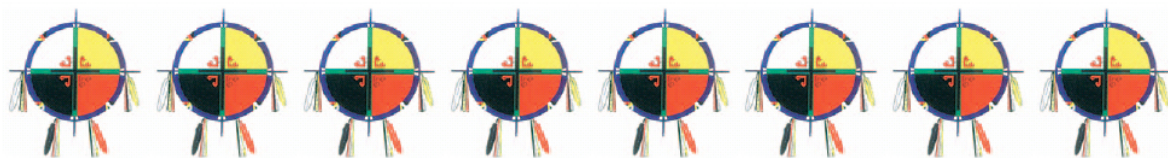
.....

CONCLUSION AND NEXT STEPS

The Roundtable discussions were successful in that they brought together tribal justice system leaders to discuss and strategize on problems facing Native Victims when they cross-jurisdictional boundaries. It was clear from the discussions that the participants were interested in participating in future roundtable discussions relating to domestic violence and/ or strategies for implementation developed from these discussion groups.

In terms of the next steps it is anticipated that project partners, namely the TJI and NDCAWS will utilize their existing resources and tools to implement strategies identified in this report and to coordinate future efforts relating to long term goals and objectives for improving victim safety and offender accountability in so far as domestic violence cases are concerned.

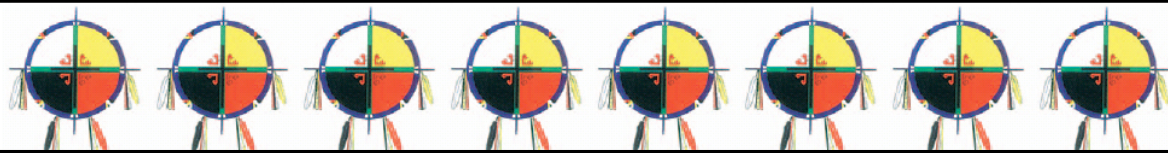
It is very likely that the initial short term focus will be on improving education about tribal justice systems, developing templates for response policies, facesheets and orders, and working with tribes to adapt policy templates to meet the needs of their respective communities and the victims that they are serving. In terms of long term objectives, there are likely to be further discussions and planning efforts on connectivity, education of justice system officials at the state and tribal level, and there will very likely be a need for future roundtable discussions relating to more in depth legal procedures and issues that affect the safety of Native victims and accountability of offenders. In light of the definitions pertaining to protection orders and the enforcement of those orders as set forth in the Violence Against Women Act, and as tribes become more creative in terms of applying civil remedies for violation of court orders, there will continue to be a need for discussions relating to cross jurisdictional issues affecting Native American victims of Domestic Violence.



TRIBAL VICTIM SAFETY INITIATIVE:

"ENHANCING SERVICES FOR THE PROTECTION OF
NATIVE AMERICAN VICTIMS ACROSS
JURISDICTIONAL BOUNDARIES"

APPENDIX





**TRIBAL VICTIM SAFETY INITIATIVE:
“ENHANCING SERVICES FOR THE PROTECTION OF NATIVE AMERICAN VICTIMS ACROSS
JURISDICTIONAL BOUNDARIES”**

**EVALUATION
DECEMBER 14, 2007**

***A TOTAL OF THIRTEEN (13) EVALUATIONS WERE COMPLETED BY DISCUSSION
GROUP PARTICIPANTS***

Please rate the following on the following scale:

1= not satisfied 2 = somewhat satisfied 3 = very satisfied

Overall, how would you rate this Gathering?	13/13 very satisfied
How satisfied were you with the subject content of the Gathering?	1/13 somewhat satisfied
	12/13 very satisfied
How satisfied were you with the presenter(s) of this Gathering?	13/13 very satisfied
How satisfied were you with the facilitator(s) of this Gathering?	13/13 very satisfied

Were there any questions, issues or concepts you felt should have been included in the discussions at the Gathering that were not?

1/13 RESPONDED YES

12/13 RESPONDED NO

Were the Discussion Groups structured in a way that you were able to make your comments and have them recorded?

12/13 RESPONDED YES

1/13 RESPONDED NO

To what extent do you believe the information discussed during the Gathering will be useful in the future development of Victim Safety and/or Offender Accountability initiatives affecting tribal communities and members?

- It is a good start to get everyone involved
- I believe all areas will be addressed
- Help implement a workable plan between tribes and state
- The sharing of different tribes' policies
- It's a start – follow through with ideas is always the key
- Getting tribal protection orders recognized and maybe able to input them into NCIC
- It would be more helpful if we had participation of our police and council

- It will be very useful if the discussions/ ideals are forwarded up and/or implemented
- Very useful
- Presence of a local tribes leader will be very beneficial in future efforts to make changes

Are there any comments that you would like to make part of the record that you did not make during the discussion groups?

- Thank you for all the great things your do. Thanks for caring.
- Not enough time to reach a conclusion and plan of action

ISSUES AND STRATEGIES

Recorded Comments

Larger Group Discussion on Full Faith and Credit (All participants involved)

Full Faith and Credit

- SR – What does Full Faith and Credit mean and is it being implemented?
- SL – Protection/Restraining Orders are having to be entered under ND Rule 7.2 before they are being enforced
- SR – Lack of Law Enforcement training leads to problems leading to Full Faith and Credit
- TM – Has recognition of foreign judgments with emergency provisions
- TA – Some problems with Full Faith and Credit but it would be the exception and more common in the counties that have less contact with the reservation and tribal members
- SL – There are some problems with titles/language of the orders that can cause issues
- NDCAWS – Database issues or lack of db
- SL – no db to hold court orders at law enforcement
- TA – has a court db no law db
- TM – has a court db but not law enforcement
- SR – has no db in place at all
- Connecting tribes electronically – group consensus = yes
- SR – connect inter-tribally first
- TM – start internally, eventually need to have state connection
- SL – start with ND tribes and then expand to other areas
- TM – how does the state put their protection orders in a db? Entered through NCIC
- SL - All tribal law enforcement has access to NCIC – but can't enter their Protection Orders in the db
- SL – law enforcement turnover through sheriff's dept. is an issue with Full Faith and Credit
- TA – an overall lack of understanding about the tribal justice system
- A recommendation would be including tribal justice systems education component to state law enforcement trainings and vice versa for tribal/federal law enforcement
- TM –approaching higher education about including tribal justice systems in their curriculum
- TA – large lack of understanding of tribal justice systems with private attys and judges at the state level
- TM – a lot of the state judges have lack of information on ICWA
- Tribal orders being kicked back from the state because they are deficient
- SL – the title of orders from the court has been an a problem in achieving Full Faith and Credit
- A lack of tribal code provisions that mirror federal and state law
- SR – standardizing orders with regard to DV protection orders at least among the tribes

- Project Passport – TA (couple years) and TM (couple months) are using it – TA - it has helped with recognition with Full Faith and Credit, TM – internally has been helpful
- SL – standardized forms would be of significant assistance to law enforcement
- SL – community awareness as to the need for standardized forms might be an issue
- SR – a lot of resistance with cooperating with the state

Prioritization:

- Education of Full Faith and Credit
 - Who
 - Law Enforcement
 - Attorneys
 - Judges
 - Court Personnel
 - Social Workers
 - First Responders (EMT's, nurses, doctors, etc.)
 - Tribal Council
 - What
 - Training on:
 - VAWA
 - Jurisdiction
 - Tribal Justice Systems
 - Full Faith and Credit
 - Technology Technical Assistance
 - Basic procedure
- Connectivity of tribes
 - Planning efforts
 - Assessment of needs
 - Equipment needs
- Standardizing forms (cover sheets on DV orders)
- Standardizing language of DV orders
- State Tribal Court Judges Forum
- Accessing NCIC

BREAKOUT GROUP COMMENTS:

Group 1 – Tribal Leader(s), Tribal Judges, Tribal Prosecutors

TOPIC: Adaptation & Cross Deputization and Adaptation of Model DV Policies

ADAPTATION OF MODEL DV POLICIES:

DO YOU FEEL THAT THERE IS A NEED FOR TRIBES TO DEVELOP OR ADAPT MODEL POLICIES TO RESPOND TO DV CASES?

WHY OR WHY NOT?

Offender programs – tribal parenting classes, anger mgmt classes, batterers reeducation

SR – victim's failure to testify, tribes failure to prosecute

SL - Forcibly making victims to testify/advocate wants to protect victim

MHAN – limited funding available, resources for funding (NARF)

TM – Healthy marriage initiative involving the entire family including children – community based, church assistance

MHAN – updated DV code, certain law enforcement requirements, failure to follow the requirements could lead to procedural problems

TM – has mandatory training, need for education of implementation of DV program, failure of enforcement of protection orders, politics play a role in overseeing judicial officials

SR – limited written agreements/ordinances, judicial official's failure to follow written orders from chief judge, court staff mistrust of BIA officials

SL – police has a model for DV but failure to follow procedures, judiciary has a problem when police force does not follow proper procedure, yearly reeducation programs would be beneficial, court DV codes lacking

SR – prosecutor works closely with police to develop proper procedures for adjudication

Summary

Polices are good for the overall system but following procedures are problematic

Must work/train together with law enforcement to ensure policies are followed correctly

Policies are essential for all parties involved in the DV process

Policies ensure that steps of DV process are actually followed

COULD YOU SEE ANY BENEFITS OR DRAWBACKS TO MODEL POLICIES FOR RESPONDING TO DV CASES?

Benefits:

SR – A lot less work, save lives

SL – Process can be safe and quickly followed if correctly applied

TM - When incorrectly followed you can determine where there are flaws in the process

BJ - DV grants are available

TM – community will not tolerate DV

Drawbacks:

MHAN – damage to individual for lengthy/untimely processing of DV

BJ – loopholes in endangering the victim with poorly written policies

TM – ability to enforce the policy

SL – model policies may not fit your specific needs or work within the court system

.....

SR – no belief in other systems/model policies that are non-Native based
SR – if other types of policies are not implemented (tort/contract) following DV policy is difficult or little faith in the policy
SL – fear of ownership/creation of policies coming from outside the tribe
TM – lack of education for not only court personnel but also community members, victims of abuse
SR – lack of victim assistance in going through the process, what will actual occur during/after the case to both offender and victim

DO YOU FEEL THAT THERE WOULD BE ANY VALUE IN HAVING MODEL POLICIES THAT ARE CONSISTENT WITH POLICIES IN PLACE WITHIN THE STATE?

SR – beneficial to cooperate with state for the victim safety
TM – recognize orders between tribal/state courts for benefit of community/victims
SR – utilize the resources of the state which tribe may not have available
TM – stronger understanding of cultures
MHAN – misconception of tribal court system by members outside the tribe can be clarified/reinforced

IS THERE ANYTHING YOU FEEL COULD OR SHOULD BE DONE TO ASSIST YOUR TRIBE IN DEVELOPING OR ADAPTING DV RESPONSE POLICIES?

TM – training/education among tribes on DV issues, state training on DV may not focus on tribal issues
SR – analysis of procedures is time consuming, development of model policy is difficult task to undertake by only judicial officials
MHAN – state “big brother” attitude problematic, universal development of model codes for all tribes are a concern
SR - BIA departmental operations are sometimes different than tribal operations or act outside tribal policies

WHAT IS THE PROCEDURE FOR IMPLEMENTING NEW LAW ENFORCEMENT POLICIES WITHIN YOUR TRIBE?

SL – need to be brought in front of general assemblies
SR – BIA approval needed, court administrative policies are only followed by the judges – no one else
TM – departmental policies go through BIA, changes to the law are brought to the tribal council passed by resolution for approval of BIA
MHAN – internal policies are departmental
BJ – tribes can impose policies on the BIA???

DO YOU HAVE TRIBAL LAW ENFORCEMENT OR BIA LAW ENFORCEMENT?

TM – BIA police/tribal officers as well/criminal investigators are BIA
MHAN – all tribal
SR – BIA no tribal
SL – BIA except DV investigator is tribal

.....

DOES THAT DISTINCTION AFFECT HOW MODEL POLICIES ARE DEVELOPED? IF SO HOW?

TM – BIA policy heeds way to tribal policy and BIA must follow tribal policy

MHAN – no, because dual officers are involved in DV situations

SR – conflict between parties causes concern no matter how strong the policy

SL – SLTC is enforced by BIA officers, policies binding on BI

.....

CROSS DEPUTIZATION:

HOW MANY OF YOU CURRENTLY HAVE OFFICERS WHO ARE CROSS DEPUTIZED?

MHAN –nothing specific but good working relationship

TM – limited but available, sheriff is a tribal member, nothing specific but good working relationship

SR – limited, but a strong working relationship

SL – sheriff available for tribal issues, BIA officers work with sheriffs office to assist when needed

DO YOU THINK THAT YOUR TRIBE WOULD SUPPORT CROSS DEPUTIZATION EFFORTS?

WHY OR WHY NOT?

SL – questionable depending on how the strong the working relationship is but CD is needed

SR – ND nothing proposed, SD tribe takes care of itself

MHAN – CD would be beneficial

TM – CD would be attainable

HOW DO YOU THINK THAT CROSS DEPUTIZATION WOULD AFFECT OFFENDER ACCOUNTABILITY?

MHAN – feds failure to act (NI v. I cases)

SL – county does not attempt to enforce laws on tribal lands but expects assistance from tribal court when needed, CD would not work because there is a lack of resources provided by state

TM – non-member situations are a concern when county fails to prosecute, CD would assist in eliminating

WHAT IF ANY IMPACT DO YOU FEEL CROSS DEPUTIZATION WOULD HAVE WITH RESPECT TO VICTIM SAFETY?

Yes, if tribal police could make federal arrests

.....

Group 2 – Tribal Advocates, Law Enforcement and Court Personnel

TOPIC: Coordinated Community Response, Cross Deputization & Adaptation of Model DV Policies

COORDINATED COMMUNITY RESPONSE:

DOES YOUR COMMUNITY CURRENTLY HAVE A COORDINATED RESPONSE FOR DV CASES?

CCR - is a multi-disciplinary coordinated effort that includes not only the tribal community but neighboring communities.

- TM – Yes, an initial report goes to one of the agencies and then a referral goes out
- SL – same as above
- TA – same as above
- Central DV connecting source
- Established Protocol to address DV?
 - TM – DV Code sets many of the protocols for CCR
 - TA – has a STOP team that meets on a regular basis, procedure is outlined in the code, issues surrounding protecting children in incidence of DV
 - SL – has established protocol on how to deal with issues off the reservation, no agreement or MOU with state service providers, they do have an established relationship with the shelters

**DO YOU FEEL A COORDINATED COMMUNITY RESPONSE IS NECESSARY?
WHY OR WHY NOT?**

- TM, TA & SL – feels it is necessary to establish a CCR between the states and the tribes
- SL – feels that the state could help with what services are available, but also need to avoid the pressure tactics especially in investigation
- It would be helpful to engage in discussions to promote tribal and state agencies working together to better serve victims
- Goes back to education about tribal versus non tribal victims of crime.

IF YOUR TRIBE IS INTERESTED IN DEVELOPING A COORDINATED COMMUNITY RESPONSE WHAT DO YOU FEEL YOU WOULD NEED IN TERMS OF RESOURCES?

The participating tribes all have this to some degree

OTHER COMMENTS?

- Ideally the CCR would extend beyond an isolated location and be more comprehensive and expensive.

ADAPTATION OF MODEL DV POLICIES:

DO YOU FEEL THAT THERE IS A NEED FOR TRIBES TO DEVELOP OR ADAPT MODEL POLICIES TO RESPOND TO DV CASES?

- SL – Model DV policies definitely are necessary
- TM – have it in their domestic code, should be modeled from tribe to tribe and state to state and is advisable because victims travel everywhere

WHAT IS THE PROCEDURE FOR IMPLEMENTING NEW LAW ENFORCEMENT POLICIES WITHIN YOUR TRIBE?

- TA – Judicial committee sets the policy and then down to Chief of Police
- TM – Committee proposes the policy and the council reviews/approves it
- SL – First developed , then passed through judicial committee

OTHER COMMENTS?

- SL – Model DV policies might be a good starting point but need to be added to or modified
- TM – has a code but it is an established policy
- DV policies are a good idea but they need to be implemented by the tribe because the BIA enforces tribal law as does tribal law enforcement
- TA – would it be helpful developing a training curriculum focused on the creation and implementation of DV policies

CROSS DEPUTIZATION:

HOW MANY OF YOU CURRENTLY HAVE OFFICERS WHO ARE CROSS- DEPUTIZED?

- TM – on an as incident based
- SL – have it but only the criminal investigators can do it
- TA – have it but only the criminal investigators can do it

HOW DO YOU THINK THAT CROSS DEPUTIZATION WOULD AFFECT OFFENDER ACCOUNTABILITY?

- SL – would help with non-Indian offender accountability
- Lack of mutual respect between state and tribal law enforcement agencies
- TM - Liability issues with cross deputization
- TM - County is concerned case load will increase and not enough funding

OTHER COMMENTS?

- Arrest authority is prohibitive to more cross deputization
- State code does not recognize tribal law enforcement officers
- Respect issues from the federal agencies regarding tribal law enforcement
- Amendments to state law that would enable tribal law enforcement officers to get licensed would eliminate questions of cross deputization

Priority:

- Ongoing education for tribal leadership
- Focus efforts on creating or adapting a model policy (First Nations Alliance)

WRITTEN COMMENTS: (submitted by individual participants)

KEY ISSUES OF STATE AND TRIBES:

1. Educating both state and tribal entities on Protection Orders and Full Faith and Credit.
2. Come together and discuss entering all tribes in the state on the same database for sharing of information.
3. Discuss cross-deputization with the state and tribes.

PRIORITY AREAS

1. Education on Full Faith and Credit
2. Education on Policy and Procedures
3. Standardization of Procedures and court orders