

Community of Practice

Tribal Code Development and Victim Advocacy



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Technology Overview

- Encourage participant interaction
 - Be prepared for polls!
- How participants can enter discussion
 - Please turn cameras on, if possible, to build community.
 - Please select “unmute” when you would like to speak.
 - Use the Chat box to submit a comment to “Everyone” or “Host”
- For any tech issues, use the Chat to contact “Host”

Poll Question:

Which occupation best matches your profession?

- First Responder
- Victim Advocate
- Law Enforcement
- Emergency Medical Services (EMS)
- SANE Nurse
- Forensic Examiner
- Other (Specify)



What is a Community of Practice?



➤ Opportunity to *network* with other individuals in the field.



➤ *Interaction* helps build rapport and foster communication.



➤ Opportunity to be *present and active* in the discussion



➤ Opportunity to enhance learning, idea sharing, problem solving, and *support*.

Last in a Series – *4th Wednesdays* January,
February, March, April

- ~~Emergency Support/Forensic Exam – January 24, 2024~~
- ~~Sexual Assault Advocacy is Not for the Faint of Heart –
February 28, 2024~~
- ~~Law Enforcement Collaboration – March 27, 2024~~
- Tribal Code Development and Victim Advocacy – April 24,
2024

Discussion questions

How many of you consult or use your tribal codes? Which codes? Under what circumstances?

Do you consult or use your sexual assault tribal codes? Domestic violence codes? How often?

Can your codes use some updates?

Poll Question: Who Writes/Updates Tribal Codes?

- Lawyers?
- Court Personnel?
- Law enforcement?
- Tribal citizens?
- Elders? Community Members?
- Advocates?



Who should write the code?

- Survivors
- Prosecutors
- Court personnel
- Law enforcement
- Leaders
- Elders
- Family Services
- Medical personnel
- Probation/Parole
- Corrections

- Defense attorneys
- Traditional healers
- Child Protective Services
- Housing Authority
- School System
- Youth Council
- Legal Aid

Advocates can do tribal code development work!



Philosophy

- Laws should come from the community
- Attorneys do not have all the answers
- We believe that providing tools for other tribes will facilitate the use of community resources
- Tribal codes should be written in keeping with tribal customs, beliefs, traditions and not necessarily to mirror state, federal laws.

Sample Purpose Statement

- **CHAPTER 1 - GENERAL PROVISIONS**
- SECTION 101. Purpose
- The OST Domestic Violence Code is construed to promote the following:
That violence against family members is not in keeping with traditional Lakota values. It is the expectation that the criminal justice system respond to victims of domestic violence with fairness, compassion, and in a prompt and effective manner. The goal of this code is to provide victims of domestic violence with safety and protection.

Culture is the cornerstone



What are the benefits of Multi-disciplinary committee?

- Expanded education/outreach on the intent of the code being developed
- Shared ownership of problem and responsibility to solve it
- Promotes buy in from stakeholders
- Establishes and maintains trust between groups
- Resource Sharing
- Development of a formal subcommittee

What are the rights tribes have as sovereign nations?

- Tribes possess the right to form their own governments;
- to make and enforce laws, both civil and criminal;
- to tax;
- to establish and determine membership (i.e., tribal citizenship);
- to license and regulate activities within their jurisdiction;
- to zone;
- to exclude persons from tribal lands;
- control the conduct of members by tribal ordinances, and administer justice.

What do you think the similarities are between tribal and body sovereignty?

Tribal Sovereignty

- Right to land
- Right to access resources
- Right to define our own history & practice our culture
- Right to live without fear
- Right to self-governance

Indian Women's Sovereignty

- Right to our bodies
- Right to access resources
- Right to define own her story & practice own lifestyle
- Right to live without fear
- Right to decision-making over our lives



If you were to develop or update tribal codes, where is a good place to start?



Poll Question

- How much community awareness has happened around sexual assault in your community?

0 - 10

no education - extensive education

Poll Question

- Do you have a Tribal Sexual Assault Response Team (SART) in your community?
 - Yes
 - No
 - Not sure

Would you or others be able to generate interest in importance of code development?

- Educating community members about sexual assault/stalking
 - Current data of reported cases or unreported
 - Cases being charged not charged by any jurisdiction
- Promoting a belief of shared ownership of the need to hold offenders accountable, for victims to have justice and heal and
- Communicating about existing sexual assault code development, how sexual assault code can be improved upon

A Brief Word on Jurisdiction

- Personal Jurisdiction
- Territorial Jurisdiction
- Subject Matter Jurisdiction

Point of Discussion:

•Personal Jurisdiction:

Who committed the crime?

Does the tribal court have authority over that person?

•Territorial Jurisdiction:

Where did the crime take place?

•Subject Matter Jurisdiction:

What was the crime?

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.

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)(2022)
 - dating violence (2013)(2022)
 - **protection order violations (2013)(2022)**
 - **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.”

Beginning the Process – Point of Discussion

- Reach out to a group of people that would form a work group;
- Determine who else needed in the work group;
- If more folks needed, seek assistance from work group members to reach out to identified individuals needed;
- Put together a binder to include current tribal SA codes, your tribes constitution; samples of tribal SA code from other tribes; list of terminology, copies of federal/state SA laws;
- Identify resources that would aid your efforts;
- Seek resources for TTA



Questions and Thoughts About Code Development Work?

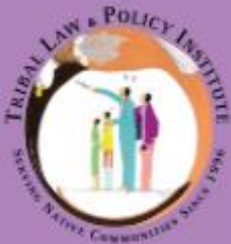


Resources

Tribal Legal Code Resource:
Sexual Assault and Stalking Laws

Guide for Drafting or Revising
Victim-Centered Tribal Laws Against
Sexual Assault and Stalking

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Tribal Legal Code Resource:

Sexual Assault and Stalking Laws

- [Tribal Legal Code Resource: Sexual Assault and Stalking Laws - Guide for Drafting or Revising Guide for Drafting or Revising Victim-Centered Tribal Laws Against Sexual Assault and Stalking](#) - April 2017 ([VAWA 22 update pending](#))
- Enhanced Tribal Authority Series: [Tribal Criminal Jurisdiction over Non-Indians Violence Against Women Act Reauthorization of 2022](#) – September 2023



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