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Impact Evaluation of STOP Grant Programs for Reducing Violence Against Women Among Indian Tribes

Project Report Submitted to the National Institute of Justice

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Executive Summary

Chapter 2 of the Violence Against Women Act (VAWA), Title IV of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), provides for law enforcement and prosecution grants to "assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women." The VAWA mandates that 4% of funds allocated for these grants be made available to Indian tribal governments. In fiscal year (FY) 1995 fourteen tribal governments received funding under this act, designated as STOP (Service*Training*Officers*Prosecutors) grant programs for Reducing Violence Against Indian Women (referred to hereafter as "STOP VAIW"). The National Institute of Justice awarded a grant to the Tribal Law and Policy Program at the University of Arizona (TLPP) to perform an impact evaluation of these FY 1995 tribal grantees. This is the final report on evaluation activities and findings.

The evaluation was conducted using a case study approach. The first step of the evaluation involved historical and legal research of each tribe, as well as requests for specific information from the fourteen tribal grantees about their programs. STOP VAIW grant progress reports, financial records, narrative reports outlining grant activities, implementation plans, and copies of tribal legislative codes, protocols and policies toward violence against Indian women were acquired from the tribal grantees. Additionally, a survey was sent to all grantees. The historical and legal research alerted the TLPP to the unique cultural and political context within which each STOP VAIW program functioned. The information requests provided the TLPP with

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an overview of each tribal program, served as a benchmark for evaluating the activities of each program, and alerted the TLPP to important issues needing attention in the second research phase. The survey supplied the TLPP with statistics on the frequency of certain activities before and after the grant, gave detailed information about coordinated community response systems, and provided information on specific aspects of victim services, police, and prosecution programs under the STOP VAIW grant.

Site visit interviews were conducted with each of the fourteen grantees. Interview goals were: to elaborate on information gathered in the first research phase by talking to persons involved in the response to violence against women, to acquire information not included in the first research phase, to assess the impact of STOP VAIW funds on coordinated community response, and to identify the cultural, political and economic factors affecting provision of services to victims in each tribal community.

Findings:

Not all STOP VAIW grantees are able to meet the Mandatory Grant Allocation formula requirements of the STOP VAIW grant program.

In an effort to ensure the development of a coordinated community approach, the Violence Against Women Act provides a Mandatory Grant Allocation Formula for all grant awards. The Mandatory Grant Allocation formula requires that at least 25 percent of the total grant awards be allocated respectively to law enforcement, prosecution, and nonprofit, non-governmental victim services programs. The remaining 25 percent is considered a discretionary

portion which may be used to address any of the above stated purposes, court-based initiatives, probation services and supervision, and certain batterer intervention programs.

Some tribal governments do not have all of the separate components of law enforcement, prosecution, and nonprofit, non-governmental victim services, within their tribal justice systems. Therefore, some exceptions have been granted to tribal governments from the Mandatory Grant Allocation formula in certain instances where they cannot meet the requirements. Tribal governments that do not have law enforcement or prosecution (as defined in the grant guidelines) are not required to allocate funds to these areas. Eleven of the fourteen STOP VAIW grantees (15) have tribal police, controlled and accountable directly to the tribal governments. Four have Bureau of Indian Affairs' police who are accountable to the BIA and not to the tribal governments. Eleven of the fourteen STOP VAIW grantees also have prosecutors.

"Victim services" (as defined in the grant guidelines) is a "nonprofit native organization not affiliated with tribal government but within the jurisdiction or service area of the tribal government that assists domestic violence or sexual assault victims." Where nonprofit, non-governmental victim services do not exist within the jurisdiction or service area of the tribal government, tribal governments are authorized to allocate 25 percent of the programmatic funds to a tribal government victim services agency. In either situation, tribal governments are still required to allocated at least 25 percent to victim services. Of the fourteen STOP VAIW grantees *Victim service?* funded, 57 percent are nonprofit organizations, and 43 percent are tribal social services and court agencies. Two of the fourteen grantees exceeded the 25 percent allocation for victim services.

Historical, legal and cultural context of criminal justice in those tribes evaluated affects STOP VAIW grant administration and provides unique challenges to tribal programs.

The complex cultural, political, and legal history of Indian and non-Indian relations plays an important role in understanding Indian self-government and contemporary tribal efforts to reduce violence against Indian women. Congressional and Supreme Court mandated limits on tribal jurisdiction create a complex and often confounding arena in which to design and administer tribal programs. Jurisdictional uncertainty exists for many tribal governments over the scope of their authority in Indian Country. Programs like the STOP VAIW play a vital role in empowering tribal governments, thus allowing them to assert and strengthen their sovereignty and control over the response to violence against Indian women.

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Tribal governments face an array of legal challenges with which no other group in the United States must contend. Specifically, there are four important jurisdictional issues facing a number of STOP VAIW programs: 1) the Major Crimes Act - passed in 1885 by Congress, the Major Crimes Act mandated federal jurisdiction and prosecution over enumerated felony crimes, eliminating or supplanting tribal jurisdiction over felony prosecutions of tribal members; 2) "checkerboarding" of land ownership on reservations as a result of historic federal Indian policies, under which Indian reservations were divided into small tracts of lands that were allotted to individual tribal members. Once allotted, those lands became vulnerable and most were subsequently transferred out of Indian ownership often through illegal and fraudulent dealings. The 'remaining' lands within reservation boundaries were opened up for homesteading by non-Indians; 3) Public Law 83-280 (P.L. 280), passed in 1953 and amended in 1968, P.L. 280 established limited state jurisdiction over criminal and some civil acts in Indian country. As a result, jurisdictional powers are concurrent between the tribes and state; and, 4) the distinction

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between full faith and credit and comity. Full faith and credit is a constitutional requirement that states honor another state's court orders and judgments. The question of whether full faith and credit applies to Indian tribes remains a legal issue. Comity is the courteous recognition of the laws and judicial decisions of the courts of one state or jurisdiction by another state or jurisdiction. In addition, the VAWA provides that any protection order issued (consistent with the Acts' provisions) "by the court of one state or Indian tribe...shall be accorded full faith and credit by the court of another state or Indian tribe...and enforced as if it were the order of the enforcing state or tribe."¹

There are numerous types of law enforcement in Indian Country. These different types of law enforcement are not mutually exclusive, and frequently operate simultaneously within a reservation. Tribal police or tribally-funded police must operate within a jurisdictional maze that is dependent upon the Indian status of the persons involved, the location of the incident, and the existence or absence of specific tribal, state or federal laws. Response to violence against Indian women is affected by the level of cooperation between various tribal and non-tribal law enforcement agencies.

These issues also dictate the agency authorized to prosecute the defendant. The prosecuting agency may be the tribe, the state or the United States Attorney Office. In certain circumstances, jurisdiction of the case may fall with more than one of these prosecuting agencies. The jurisdiction to charge and prosecute a perpetrator is determined by Federal statutes, case law, treaties and tribal legislative codes.

In some tribal communities, various types of state and local law enforcement agencies

¹VAWA, chapter 2§2265(a)

provide assistance in cases of sexual assault and domestic abuse. Programs must be designed to meet the needs of the Indian women to be served as well as address attitudes towards domestic violence and sexual assault, work with limited resources, and the aforementioned legal and jurisdictional issues, when developing responses to violence against Indian women. Indian communities often may lack the financial, human, and institutional resources to implement an effective crime prevention strategy.

The fourteen STOP VAIW grant recipients made significant efforts to develop coordinated community responses to violent acts against Indian women.

Task Forces

Eight of the fourteen grantees formed working groups directly as a result of the STOP VAIW grant. These grantees successfully brought together representatives from various groups within their communities to design and review policies regarding the handling of sexual assault and domestic violence cases. These working groups have developed appropriate, sensitive tribal legislative codes and protocols for the response to violent crimes against Indian women, have fostered interagency coordination, and have created an atmosphere where issues related to violence against Indian women can be discussed in the community. These groups often include members from tribal courts, law enforcement, prosecution, victim services, tribal council, social services, and community members. Task forces and regional coalitions also can help bring together representatives from various jurisdictions to facilitate networking and create agreements to work together.

Training

Several tribal communities adopted a coordinated approach to training. Many tribal grantees used STOP VAIW funds to train representatives from numerous agencies involved in the response to violence against Indian women. Training was one of the most frequent activities conducted with FY 1995 STOP VAIW funds. Training sessions have improved both the efficiency and number of responses to domestic violence situations as well as increased awareness by communities, police, prosecution and judicial officials. Tribal grantees also developed information-sharing and data coordination networks. By using STOP VAIW funds to develop computer links and consistent data collection, tribal grantees are better able to track an offender.

One indicator of the results of training is the numbers of protection orders issued and prosecution rates. Many grantees interviewed noticed a sharp rise in the issuance of protection orders which ranged from a 98% increase in one tribal community to 50% in another. Prosecution rates rose in the Tribal Communities interviewed with one grantee indicating that cases reaching court quadrupled after training. The majority of the grant managers interviewed attributed this increase to training given in specific components of the criminal justice system, such as prosecution or legal advocates, and to the general raising of awareness fostered by training activities.

Challenges

Significant challenges to coordination have been overcome in many tribal communities. Initially, law enforcement and victim service components had few formal channels of

communication, and the informal channels that did exist were not clear and consistent enough to be entirely efficient. With the advent of STOP VAIW funding, formal protocols that enhanced coordination were developed. Formal protocols can be effective in bringing victim services personnel into each domestic violence case in a clear and consistent manner. Many tribal grantees had problems with consistent police response to domestic violence calls. By involving tribal and non-Indian law enforcement in domestic violence task forces, tribal communities are beginning to resolve some of these difficulties.

The FY 1995 tribal grantees have demonstrated a strong commitment to enhance services for Indian women who are victims of violence.

The 1995 tribal grantees were: creating specialized domestic violence court advocates, developing shelters and safe homes, and improving accessibility of victim service programs.

Shelters and Safehomes

Shelters and safehomes have been developed or enhanced through the STOP VAIW grant. The role of shelters for Indian women who are victims of violent crimes vary among the grantees. For some, a shelter is a viable and acceptable way to provide a safe place for Indian women who are victims of violence, giving her time to assess her options. For others, a lack of the resources necessary to acquire and maintain a facility make a shelter unfeasible. In some cases, available shelters are off-reservation and not designed to address the unique circumstances of Indian women, raising a set of problems for Indian women who are victims of violence which include: distance from home/family, inability to bring children, expense of travel to and from the

shelter, expense of staying in the shelter, and relevancy of services. With STOP VAIW funding, tribes have been able to fund several victim services employees, and improve and expand facilities and programs, which increases the number of Indian women they can shelter. Tribal shelters provided numerous services and critical support to Indian women who are victims of violence.

The table below indicates the growing need for shelters as indicated by the increases in the numbers of Indian women and children utilizing these services:

Shelter Utilization by Indian Women and Their Children

Year	1995	1996	1997	% Increase
Women	213	293	307	44%
Children	335	338	408	22%

For those tribes that do not have shelters, safehouses are an alternative. Safehouses are generally on-reservation homes of tribal members who volunteer to take in a victim for a brief period of time. Safehouses have several benefits, the most prominent of which is the fact that the victim may remain within the tribal community as well as the low cost to the tribes. Safehouses save the tribal communities faced with very limited financial resources from the costs of building and maintaining a shelter. In some tribes the number of Indian women who might need to use such a facility is too small to justify a shelter and safehouses provide a viable alternative. Safehouses, though, are generally only available for a few days. This limited role is an effective and innovative way for domestic violence victims to escape a volatile and dangerous situation for a short time.

Telephone Hotlines

Telephone hotlines are another means of providing support for Indian women who are victims of violence. Of the fourteen grantees evaluated, one consortium and four tribal communities track the number of calls received. During the FY 1995, there were approximately 554 crisis calls logged among the five grantees. The following year, FY 1996, there were 1,034 calls logged, an almost 100% increase from the previous year. This increase can be attributed to community education and awareness about violence against Indian women by advocates, staff, community members, and the visibility of the programs through brochures and pamphlets about STOP VAIW programs.

Advocates

Advocates provide diverse services including a range of legal education and assistance for victims, crisis intervention, community education, transportation, and facilitation of women's support groups. Of the fourteen tribal communities, two consortia and ten tribes have developed advocate positions. Eleven of the fourteen grantees have legal advocates. Legal advocates play an active role in helping women who are victims of violent crimes obtain orders of protection and with court appearances. They also perform monitoring and advisory functions to courts. Advocates help battered women gain access to a wide range of community resources including housing, education, financial assistance, food stamps, clothing, employment, and childcare. Battered women who work with advocates were more effective in meeting their goals than Indian women who did not work with advocates.

Protection Orders

STOP VAIW grantees are attempting to enhance victim safety through the prompt issuance of protection orders and sanctions for violations of these orders. A consistent problem with protection orders involves difficulty in getting tribal orders honored by other jurisdictions. Some tribes are experiencing increased enforcement of protection orders as a result of better cooperation between tribal and non-tribal criminal justice agencies. The problems tribes face in issuing and enforcing protection orders differ across the grant recipients' experiences and location. However, STOP VAIW grants have played a vital role in facilitating the use and effectiveness of these orders. Jurisdictional problems across state and county boundaries remain obstacles, but many of the tribes are addressing these problems in a pro-active manner.

Support Groups, Crisis Intervention and Referral Services

Programs attempting to establish support groups for Indian women who are victims of domestic violence and/or sexual assault within tribal communities face at least two constraints. First, traditionally native women received support from their family and clan. The beating or rape of a woman was a serious matter that was handled immediately. Imposition of western culture upon Native communities has resulted in the erosion of many traditional support systems available to Indian women. The creation of formal support groups are an effort to provide the necessary support to women, that some find helpful and others do not. The creation of programs specifically designed to address the needs of Indian women are essential. A perceived lack of confidentiality exists which impedes the creation of support groups in some tribal communities. Secondly, some abused Indian women do not want to reveal the abuse they experienced for

various reasons, thus reducing their chances of attending support groups. Despite such constraints, tribal communities that have support groups actively advertise their groups to Indian women, provide a safe and neutral setting for meetings, and encourage the involvement of family. Of the fourteen grantees evaluated, seven tribal communities and two consortia have established women's support groups as a component of their STOP VAIW programs. The establishment of support groups led to an increase in referrals to groups, an increase in the empowerment of women, and an increase in the openness to discuss intimate issues.

By creating tribally specific programs that keep traditional views intact, STOP VAIW programs are beginning to address the difficulties of providing crisis intervention services to abused women in Indian Country. Before STOP VAIW funding, crisis intervention faced three primary constraints. One barrier to crisis intervention was the common belief that domestic violence is a family issue. This is being successfully addressed by training and education of the tribal communities and consortia. Second, at least half of the tribal communities evaluated believe keeping families intact is very important, and divorce is not always socially acceptable. Crisis intervention for the victim and holding offenders accountable for their abusive behavior are viewed as essential and both are components in most of these tribal programs. Third, victims requesting counseling were often referred to off-reservation counseling centers in surrounding towns. Furthermore, those programs, that stress leaving the abusive situation and becoming self-sufficient, thus requiring in many instances urbanization, are considered inappropriate. For many Indian families, this is not a preferred or realistic option. Therefore, on-reservation crisis intervention programs were initiated.

STOP VAIW funds have been used to improve police response to violence against Indian women.

The STOP Violence Against Indian Women Discretionary Grants contain funding provisions for law enforcement activities that help to reduce violent crime against Indian women. Law enforcement agencies, as defined by the grant parameters, are any "tribal agency charged with policing functions." This does not include volunteer or BIA units. Grant funds may be used to: (1) train tribal law enforcement officers to more effectively identify and respond to violent crimes against Indian women, (2) create specialized units of tribal law enforcement officers to target violence against Indian women, (3) establish effective tribal legislative codes and protocols for police to follow in criminal domestic violence situations, (4) develop information sharing networks and data collection systems linking police with courts and victim services in order to better track offenders, and (5) develop coordinated and integrated partnerships with other tribal agencies to address violent crimes against women. The 1995 tribal grantees have developed programs that address these five permissible uses of funds.

Police and Coordinated Response

Most tribal police departments experience some problems with coordinating responses to violence against Indian women in their communities. The most prevalent problems involve jurisdictional issues between tribal and non-tribal agencies and the lack of participation from departments not accountable directly to the tribal government. This is most evident in the problems encountered by tribal police and courts getting tribal court orders or tribal legislative codes honored by other jurisdictions.

Tribes have devised several ways to overcome problems with recognition of tribal court orders. Several of the STOP VAIW grant coordinators and task forces are trying to negotiate full faith and credit agreements with outside jurisdictions. Some tribal grantees with task forces or advisory boards are seeking to expand these entities to include non-tribal law enforcement agencies in a coordinated response to violent crimes against Indian women. Several tribes are constructing tribal legislative codes modeled after state codes in the hope that they will be more readily accepted by outside jurisdictions. Some tribal grantees negotiated cross-deputization agreements with non-tribal law enforcement agencies. Among tribal grantees and non-tribal law enforcement agencies, cross-deputization agreements evolve both formally and informally. Cooperation between departments is excellent in some cases, inconsistent in others, and non-existent in others.

Police Training

Police training is one of the more prevalent activities of the grantees. When law enforcement officers receive domestic violence training in conjunction with the development of police protocols and tribal legislative codes, findings from the site visits indicate that perpetrator arrests increase and collateral arrests decrease.

The table below indicates a sample of these increases in calls and arrests:

Tribal Community Calls and Arrests:

Year	1995	1996	1997	% Increase
TC1 Calls	--	38	47	24%
TC1 Arrests	--	16	25	56%
TC2 Calls	394	--	566	44%
TC2 Arrests	167	--	206	24%
TC4 Calls	--	13	43	65%
TC11 Arrests	--	16	18	13%

Among tribal grantees who submitted arrest figures for more than one time period, all show an increase from either pre to post grant periods, or from the beginning of the grant to a later period in the grant. Most persons interviewed in these tribal communities attributed the rise in arrest rates to police training.

With respect to the decrease in collateral arrests, one tribal community representative stated that collateral arrests decreased from 26% before the grant to approximately 11% afterwards. This decrease coincided with four mandatory police training sessions held between October 1996 and mid 1997. Another grantee indicated that collateral arrests have also been reduced since the inception of the STOP VAIW program. There are no statistics for the prevalence of collateral arrests before the grant, but persons interviewed stated collateral arrest had been more common prior to the STOP VAIW grant than they are post grant.

Two important factors regarding police acceptance of training emerged during this study. First, whether police were being trained by other criminal justice persons or by non-criminal justice persons appears to make a significant difference in police acceptance of training information. Second, the difference between mandatory and voluntary training clearly affects the

impact these training sessions can have. The most successful combination of these two factors appears to be mandatory training conducted by criminal justice personnel.

Impact of Training

Anecdotal information from interviews suggests that police training helped to improve report writing and evidence gathering procedures. These improvements eventually translate into more effective and consistent prosecution of cases. In all communities discussing collateral arrest, the incidence has been reduced since the inception of the STOP VAIW program and police training. Among tribal grantees who submitted arrest figures, all show an increase in arrest and or calls to police since training. Increased arrest does create other issues, however. Tribal court resources may become overburdened as arrests increase. Numerous tribal grantees noticed an improvement in police response to violent incidents involving Indian women after training.

Domestic Violence/Sexual Assault Officer or Unit

Four tribal grantees added a specialized domestic violence/sexual assault officer through the grant. This officer or unit is an important component of the response to violent crimes against Indian women. Often they serve as a bridge for communication between the police and social service agencies or courts. The specialized officers respond to calls, monitor police and court procedures, serve as a training resource for other law enforcement officers, and provide emergency services to victims.

Mandatory Arrest

Eight of the tribal grantees developed mandatory arrest policies as a result of the STOP VAIW grant. Mandatory arrest is usually accompanied by mandatory incarceration of the offender for a specified short time as a "cooling off" period. Tribal grantees experience some problems associated with mandatory arrest, however. The most prevalent problem is that of inadequate jail space. Grantees without jails must contract with outside jurisdictions to house persons they arrest. This creates a financial burden on tribes with already limited resources. Additionally, the use of off-reservation jails to house prisoners is not always viewed by community members as a tribally appropriate method of punishment. Victims may be more reluctant to follow through on complaints if they know the offender will be sent to a non-tribal jail. Mandatory arrest also burdens the tribal courts by overloading them. Numerous tribes are trying to relieve the burden on courts by streamlining tribal legislative codes, initiating batterer intervention programs in lieu of jail sentences, and instituting a monitoring systems for offenders. Mandatory arrest will continue to be a burden on limited tribal resources.

Tribal grantees are enhancing the prosecution of violence against Indian women

Prosecution units among the FY 1995 STOP VAIW grantees were primarily involved with: developing novel systems to handle the unique situations encountered in Indian Country and helping to draft and/or revise tribal legislative codes and protocols. Grantees have developed lay prosecutorial advocates, traveling tribal courts, hired law clerks to track and define cases, and funded additional prosecution staff time.

Tribal Legislative Codes and Protocols

All but one of the tribal grantees are developing or revising tribal legislative codes and protocols for domestic violence response. Specific features of tribal legislative codes include: (1) mandatory arrest, sentencing provisions, and batterer intervention programs, (2) clarifications of definitions in codes, (3) provisions for emergency protection orders, (4) tribally specific provisions in sentencing, and (5) provisions discouraging collateral arrest.

STOP VAIW grantees are developing formal policies that enhance prosecution of violent acts against Indian women. Among the grantee responses to improve prosecution of cases are: (1) tribal legislative codes that require dismissals of cases to be a collaborative decision by police, probation department and prosecutor, (2) mandatory prosecution provisions in tribal legislative codes, and (3) having the police sign the complaint to enable prosecution if the victim decides not to go forward with the case.

The following chart details the key code elements discussed above for the nine grantees who provided the TLPP team with a copy of their current domestic violence tribal legislative codes. The three tribal consortia that were funded with FY 1995 STOP VAIW grants were generally helping each member community develop individual tribal legislative codes that catered to each community's needs. However these tribal legislative codes are not included in this chart. Two of the tribal communities, TC Six and TC Eight, had no domestic violence tribal legislative codes in place at the time of the evaluation. However they were in the process of development at that time.

Domestic Violence Tribal Legislative Codes Among 1995 STOP VAIW Grantees

Provisions	TC1	TC2	TC3	TC4	TC5	TC7*	TC9	TC10	TC11*	Total
Mandatory Arrest	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	7 of 9
Warrantless Arrest Only				Yes					Yes	2 of 9
Cooling-Off Period	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	7 of 9
Emergency Protection Orders	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	9 of 9
Dual Arrest Provisions	Yes	Yes	No	Yes	Yes	No	Yes	No	Yes	6 of 9
Primary Aggressor or Self-Defense Provisions	Yes	Yes	No	Yes+	Yes	No	Yes	No	Yes+	6 of 9
Cultural Provisions in Sentencing++	No	Yes	No	No	Yes	No	Yes	No	No	3 of 9
Special Jurisdiction Provisions+++	No	No	No	Yes	No	No	Yes	No	Yes	3 of 9

* These Codes were in draft form, but were in final stages of adoption by Tribe

+ These Codes had Self-Defense provisions only and not "Primary Aggressor" provisions

++Cultural alternatives in sentencing included:

. Traditional alternatives to counseling (TC2);

Traditional religious counseling authorized at perpetrator's expense (TC9); and

"Culturally Sensitive Sentencing" required, which includes "traditional Remedies" (TC5)

+++Special Jurisdictional provisions included:

Authorized removal of non-member perpetrators from the reservation,

other criminal offense designated for entering into tribal community and engaging in domestic violence, and declaration that jurisdiction extends to all areas and persons within the community (TC9);

Code specifies that tribal member or non-member may seek civil Order of Protection, and Special Service provisions for perpetrators residing off the reservation (TC11);and

Comity provisions (TC4).

Case Disposition

For the STOP VAIW programs that were able to supply the TLPP with figures for disposition of cases, conviction rates either increased or stayed constant during the first year of STOP VAIW funding. Grant managers attributed increased conviction rates to the initiation of

STOP VAIW funding and the resulting tribal legislative code development. The data shows an increase in the severity and frequency of sentences once STOP VAIW funded programs were in place. Out of eleven survey respondents, six reported increased conviction rates from FY 1995 (the first year of STOP VAIW funding) to FY 1996. Two of the six respondents experienced a doubling of conviction rates while two other tribal communities reported 10% increases between the two years. One of the tribal communities reported that the conviction rates rose from approximately 35% to 90% after the implementation of a domestic violence code.

The survey indicated that fines as a part of sentencing for cases of domestic violence stayed at the same rates or increased with the advent of STOP VAIW funding. Five of the six respondents noted that at least 50% of offenders were fined. One respondent reported a 100% increase in offenders being fined. Jail sentences also rose among most survey respondents. Three grantees noted increases of 100% to 150% in the number of offenders given jail time.

Some tribal grantees also provided statistics on case disposition. One respondent reported a total of 306 arraignments out of 570 cases for incidents of violence against Indian women in 1996 (54%). Of these 306, 29% resulted in convictions, 29% were dismissed, 38% were pending, and 4% had other dispositions. Another respondent, taking 1995 as a baseline, reported that arraignments for incidents of violence against Indian women increased 57% in 1996 and 11% in 1997. Complaints increased 62% between 1995 and 1997. An additional respondent reported a 200% rise in prosecution since the grant. Overall, the tribal grantees were prosecuting and sentencing domestic violence crimes more vigorously since the STOP VAIW grant.

Tribal Grantees are using the Discretionary funds allocation of the STOP Grant to enhance offender accountability

According to STOP VAIW grant requirements, 25 % of the grant funds may be expended at the grantees' discretion. For the most part 1995 tribal grantees used their discretionary funds to develop or supplement probation services, and develop or supplement court mandated batterer intervention groups. By making offenders accountable to the criminal justice system, STOP VAIW programs are attempting to protect Indian women from abusers and hold batterers accountable for the crimes they have committed.

Compliance/Probation/Tracking Officers

A number of STOP VAIW grantees have developed or enhanced existing positions that track an offender's movement through the criminal justice system. Particular attention is paid to compliance with tribal court judgements. Of the fourteen tribal grantees evaluated for this report, at least six tribes had a position delegated for tracking offenders, or were in the process of developing such a program.

One of the most thorough and clearly defined examples of the tracking officer can be found at Tribal Community Three. The TC Three tracking officer, a STOP VAIW funded position, is responsible for monitoring the progress of the offender all the way through the system. Generally, the duties of the tracking officer are: 1) to perform an initial arrest interview and to write a report based on the interview, 2) to perform a background check on the offender once he has been arrested, and 3) to track compliance with the court mandated batterer's intervention program and report any failure to comply back to the court. While it was too early to accurately assess any measurable difference, some of the persons interviewed stated that the work of the tracking officer, especially the reporting of non-compliance with court ordered intervention

programs, was positively impacting offender accountability.

Court Mandated Batterer's Intervention Programs

Domestic violence offenders are often given a sentence that includes participation in an organized batterer's group. STOP VAIW grantees are in various stages of implementing or designing such groups. The funds to support such groups are gathered from different sources that complement court mandates developed under the STOP VAIW grant. Grantees are sometimes reluctant to send offenders to off-reservation batterer intervention programs because these groups may be incompatible with tribal values, customs and practices. Additionally, some tribes lack the resources to punish non-compliance with the batterer intervention programs. In communities that have a well supported offender sentencing and tracking system, effective batterer's intervention programs can be important in holding offenders accountable for their behavior.

One example of a highly effective program was found in Consortium Two. Their program is court mandated or voluntary and lasts for twenty-four weeks. During an intake meeting, the offender signs a behavior and attendance contract. The issues covered in the meeting include: 1) historical Native perspectives on domestic violence, 2) taking responsibility for their violence, 3) examining the belief systems that support that violence, 4) the consequences of violence, 5) the effects of violence on children, on relationships, and on the community, 6) learning non-abusive behavior and skills, and 7) maintaining a control log. If an offender misses class, then a letter is written to the judge who issues a bench warrant and the perpetrator starts the class over again. It is critical that probation officers or tracking officers enforce non-compliance issues in order for the system at this Consortium to work.

Conclusions and Recommendations

The STOP VAIW program is making a significant impact on violent crimes against Indian women in Native communities. STOP VAIW grants empower Native communities in the development of community centered approaches as well as tribally specific customs and practices to combat violent crimes against Indian women. The FY 1995 STOP VAIW grant recipients have made significant advances in the effort to protect abused Indian women and hold offenders accountable for the crimes they have committed. These advances have primarily been the result of coordinated, community based efforts. The FY 1995 STOP VAIW grantees have demonstrated the success of implementing a coordinated approach to stopping the cycle of violence that exists in many Indian homes. By bringing together police officers, prosecutors, judges, victim service personnel, tribal leaders and interested community members, STOP VAIW grantees are drawing on indigenous as well as American ideas about justice and community wellness to stop abuse in their communities. The community centered goals of the STOP VAIW program have proven to fit well with many tribal communities who are seeking community oriented methods to respond to violent crimes being committed against Indian women. The work to protect Indian women must continue and the STOP VAIW program is vital to these efforts in Indian Country.

While positive steps are underway in Native communities to stop the incidents of violence towards Indian women, there is still work to do. Based on the impact evaluation of the fourteen FY 1995 STOP VAIW grantees, the following recommendations are made:

Coordinated Community Response Recommendations

Tribal Legislative Code Development:

Developing and implementing comprehensive domestic violence, sexual assault and stalking tribal legislative codes are foundational to the development of a successful criminal justice response to violent crimes against women. STOP VAIW programs should make tribal legislative code development or revision a top priority. For those tribal communities that have no existing domestic violence, sexual assault or stalking code on which to build, tribal legislative codes from other tribes should be used as guides, however they should reflect the specific tribal justice system.

Policy Task Force:

The formation and continuous utilization of a task force is clearly an invaluable means to coordinating a community response to violent crimes against Indian women. STOP VAIW grantees should make every effort to develop a task force or at least a regular working group to coordinate tribal policy efforts. A task force should include members of all components of the criminal justice system, victim service providers, social service agencies that handle child welfare issues, members of the community at large, and other participants as appropriate.

Training:

Each STOP VAIW program must do a needs assessment and identify the type and extent of training needed. In general, each of the criminal justice and victim service agencies that respond to crimes against Indian women needs to provide training on domestic violence, sexual assault and stalking issues. It is useful if all agencies are receiving consistent training so that everyone brings a common knowledge to each case.

Information Sharing:

Each STOP VAIW program must assess the extent to which information about offenders is shared, and improve or develop systems that are tailored to their needs. Each agency, law enforcement, prosecution, courts, and probation services, needs to have access to the same information so that victims are protected and offenders are held accountable. Standardized forms are one example of how such a system can operate comprehensively.

Victim Service Recommendations

Shelters/Safe Houses:

A compatible, safe place for Indian women to sort out their options after a domestic crime is extremely important. On-reservation shelters are advantageous because they are staffed all the time (or at least have someone on call), provide a secure space within the community, are generally sensitive, and enable a victim to be in an environment where she may be able to discuss her options with someone who understands her situation. However, a shelter may not be cost effective or even possible in some communities. Safe houses provide many of the same benefits of a shelter, and are very cost effective. However, both safe houses and shelters are only short

term options. They should not be viewed as the primary solution to the problem of violent crimes being committed against Indian women.

Advocates:

Advocates are vital to a successful victim service program. All STOP VAIW programs should seriously explore the feasibility of creating some type of advocate position(s) so that women who find themselves in the legal system have a well trained guide to assist them. Ideally, both legal and victim advocates would be available so that a woman knows her rights, the status of her case and also understands what services are available to her.

Protection Orders:

Protection orders can be one of the most important tools a legal system has to protect a woman who has experienced domestic abuse. Victim safety, however, can be undermined if the order is not enforceable. STOP VAIW programs must assess their jurisdictional issues and develop protection orders that are legally sufficient for enforcement by outside jurisdictions.

Support systems/ Crisis Intervention:

STOP VAIW programs need to work to develop tribally specific, victim centered programs so that Indian women have a support system outside their abusive situations. Child care, job training and education are all victim service areas that need to be fully developed to provide options for Indian women who want to leave an abusive situation. While developing crisis intervention programs in Indian Country is challenging, it is not impossible and they offer substantial benefits for a victimized woman.

Law Enforcement Recommendations

Jurisdiction:

Each STOP VAIW program must do an assessment of their jurisdictional situation and clearly understand the jurisdictional issues that are barriers to protecting abused Indian women. Once the jurisdictional environment is clearly understood, each program should make a determined effort to start a dialogue with tribal, state, county and federal agencies with which they must work. The only feasible solution to the jurisdictional complexities that are inherent in Indian Country begins with sincere discussions of the problems with everyone who is involved.

Training:

Law enforcement training is extremely important for a successful STOP VAIW program. Police must understand the dynamics of violence against Indian women and be well equipped to handle these situations. The evaluation data suggests that the most successful training method is a mandatory training conducted by criminal justice personnel. Because of the high rates of turnover experienced by many tribal police departments, efforts need to be made to insure that training is done in such a way that one person leaving the department does not take all the knowledge with him or her.

Specialized Domestic Violence Officer or Unit:

A specialized officer or unit is effective in those communities that need and can support such a position. Each STOP VAIW program needs to closely assess their situation and determine whether they have the number of cases and the personnel on hand to develop a specialized officer. If the need exists, these positions are effective in bringing consistency and knowledge to each violent crime that is committed against an Indian woman.

Protocols:

Development of clear law enforcement protocols are important to creating a consistent level of response to domestic violence, sexual assault and stalking calls. STOP VAIW programs should develop clear, written protocols with input from not only police officers, but also from prosecutors and victim service providers. Dispatchers must have a clear protocol so that each domestic call receives the proper response. Protocols, in conjunction with a clear and useful code, make a significant impact on the safety of Indian women who have been abused.

Prosecution Recommendations

Innovation:

Tribal prosecution units have a great deal of potential for developing innovative ways to assist Indian women who have been victimized. Each STOP VAIW program must assess their needs and develop appropriate responses for prosecutors. Lay advocates and the traveling tribal court are two innovations that were successfully implemented by FY 1995 STOP VAIW grantees, but each program may have needs that are unique. Prosecutors should take a leading role in developing innovative systems that protect victims and hold offenders accountable to the community.

STOP VAIW Funded Prosecution or Additional Staff Time:

Because the STOP VAIW program allows funds to be used for prosecutors, tribal programs without the resources to hire a prosecutor full time should use these grants to at least partially fund a prosecution unit. A prosecutor is vital to helping protect a victim and hold an offender accountable, so those communities that do not have a prosecutor should assess the feasibility of developing this position with STOP VAIW funds.

Tribal Legislative Codes:

Tribal prosecutors play a vital role in tribal legislative code development and implementation. In this role prosecutors should seek community support, and attempt to integrate tribally specific features in domestic violence, sexual assault and stalking tribal legislative codes. Prosecutors are also valuable in training others on a newly developed code and helping to insure that the tribal legislative codes and protocols are followed.

Protocols:

Prosecutors should develop and implement protocols that provide for clear and consistent

responses to cases that involve violent crimes against Indian women. Because of the newness of domestic violence tribal legislative codes and the problems associated with prosecuting these cases, protocols are important in ensuring that cases are handled appropriately by all prosecutors. Effective prosecution protocols allow fewer cases to slip through a system and therefore are helpful in protecting Indian women and holding offenders accountable.

Discretionary Spending Recommendations

Probation/Tracking Officers:

STOP VAIW programs should assess the needs of the community and develop some type of appropriate position that is designed to keep track of a domestic violence offender. With new and revised tribal legislative codes, tribal criminal justice systems are processing more offenders and must attempt to keep these offenders accountable to the system. The probation/tracking officer position should be designed so that the officer reports any failure to comply with a court order directly to the court.

Batterer Intervention:

Development of a batterer intervention program can be an effective alternative to incarceration if the program is designed with community input and offenders are held accountable for non-compliance. STOP VAIW programs that have no incarceration facilities or have concerns about removing an offender from the home or community should consider developing a structured batterer intervention program. In conjunction with a probation/tracking officer, batterer intervention programs can be successful in making an offender accountable for his actions.

Part I:
The University of Arizona
STOP VAIW Grant Evaluation
and the
Context for Reducing Violent Crimes Against Indian Women

Introduction

The following report assesses the impact of the STOP Violence Against Indian Women Discretionary Grants Program (heretofore referred to as STOP VAIW) on the fourteen American Indian/Alaska Native communities and consortia which received fiscal year 1995 funding.² This report is a narrative, aimed especially at practitioners in the field, regarding the development and implementation of STOP programs, the problems faced by tribes, and the best practices that are being developed. This report is divided into two sections. Part I includes a brief discussion of the University of Arizona STOP VAIW Grant Evaluation goals and methodology and then provides the proper context in which to understand the evaluation findings. Part II of this report presents the actual findings of the University of Arizona evaluation.

The Violence Against Women Act

Chapter 2 of the Violence Against Women Act (VAWA), Title IV of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), provides for law enforcement and prosecution grants "to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent

²Throughout this report the terms "American Indian" and "Native American" will be used interchangeably.

crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.” The VAWA mandates that 4% of funds allocated for these grants be made available to Indian tribal governments. The Violence Against Women Office (VAWO) in the Office of Justice Programs (OJP), U.S. Department of Justice, administers these funds, designated as STOP grants (Service*Training*Officers*Prosecutors).

The University of Arizona STOP VAIW Grants Evaluation

The Tribal Law and Policy Program at the University of Arizona (TLPP) conducted a two-year impact evaluation of the fourteen tribal grant programs funded with FY 1995 STOP VAIW funds. The impact evaluation had three primary goals:

- To develop a basic understanding of the cultural and legal contexts of reducing violence against Indian women among Indian tribes,
- To evaluate the impact of tribal programs aimed at reducing violence against Indian women in terms of effectiveness, and
- To identify promising practices and recommend improvements to existing programs.

Although the STOP VAIW program is designed to help communities combat several forms of violence against Indian women (stalking, sexual assault and domestic violence), the fourteen tribal groups evaluated by TLPP generally used STOP VAIW funds to combat domestic violence. Domestic violence is the primary violent crime reported by Indian women. While stalking and sexual assault are issues with which Indian women must contend, they are crimes that are infrequently reported in Indian Country. Stalking tribal legislative codes were just beginning to be developed among the tribal grantees at the time of this evaluation, and sexual assault was still not being addressed by many tribal criminal justice systems. Because of these

issues, the TLPP evaluation team focused on the impact that STOP VAIW funds were having on incidents of domestic violence among the fourteen tribal groups funded in FY 1995. However, where available, information on stalking and sexual assault has been included in this evaluation report.

Evaluation Methods

TLPP used the case study approach to understand developments in the fourteen tribal groups who received fiscal year FY 1995 STOP VAIW funding. The research had four distinct methodological phases. In Phase I historical and legal research was done regarding each of the fourteen tribal grantees funded in FY 1995. TLPP contacted each of the fourteen tribal grantees to obtain specific documentation including: 1) STOP VAIW grant progress reports, 2) financial records tracking STOP VAIW grant spending, 3) narrative reports outlining first year activities, 4) reports outlining the implementation of the STOP VAIW grant, 5) copies of tribal legislative codes regarding violence against Indian women, and 6) copies of tribal police and prosecution protocols regarding violence against Indian women.

Phase II of the research involved site visits of one or two days in length with the fourteen FY 1995 tribal grantees. Site visit time was spent interviewing the people who work, either directly or indirectly, with STOP VAIW grant programs.³ At most locations, interviews took place with police chiefs, police officers, victim advocates, tribal judges, prosecutors, victim services providers and grant coordinators. Indian women who received services for victims of violent crimes were generally not interviewed during the evaluation. The extreme sensitivity of

³See Appendix A for a chart indicating the distribution of interviewees.

these types of interviews led the TLPP team to only interview two clients at one site, and those were Indian women who volunteered to speak with us. Phase II also included a survey of the fourteen FY 1995 tribal grantees which was intended to gather specific, detailed information about victim referrals, arrest and prosecution rates, and a number of other grant impact indicators.⁴ This quantitative instrument was administered after the qualitative gathering of data from the site visits. It was especially vital due to the lack of baseline statistics on these programs. However, given the general lack of baseline statistics, the early stage of development of most VAIW programs, and TLPP's emphasis on 'best practices,' this evaluation emphasized a qualitative approach rather than a quantitative approach.

Phase III of the research involved analyzing all of the Phase I and II data. Internal post-site visit reports summarized the data gathered from each tribal group during interviews. In Phase III, the data from the surveys sent to FY 1995 tribal grantees was analyzed and summarized. The fourth and final phase of the impact evaluation involved compiling all the information gathered and analyzed in the first three phases into the following report.

⁴ See Appendix B

Chapter 1

Criminal Justice in Indian Country: An Overview

Indian Country is unique in terms of the relationship between tribes and the federal government, in terms of governing structures (including court systems and law enforcement), and in terms of the cultural traditions on which a tribe may rely for dealing with violence and treating Indian women who are victims of violence. The following chapter provides an overview of those aspects of criminal justice in Indian Country that have a significant impact on STOP VAIW programs.

Understanding Tribal Programs to Reduce Violence Against Women from the Tribal Perspective

In the past, non-Indian policymakers and researchers have found it difficult to avoid assessing the role of tribal self-government in the American political and legal system from a non-Indian perspective. Analysis has often started with a model adapted from the non-Indian world of the way that tribal governments should work. For instance, a policymaker or researcher unfamiliar with tribal self-government in Indian Country will likely try to understand it by comparing it to something that is far more clearly understood, i.e. the non-Indian tradition and system of self-government. From such a non-Indian perspective, important questions to ask might include: does the tribal government have a constitution; does it have its own court system; are the judges independent; does the tribe have its own police force, what about jails and

probation services, where can these be found on the reservation?⁵

These are all legitimate questions to ask about Indian tribal self-government, and there is a large body of literature which gives many of the answers to these types of important questions.⁶ These types of questions enable policymakers and researchers to understand some important features of tribal self-government in Indian Country. It is always important to remember, however, that the answers and the questions themselves may all refer to a cultural context that is not an inherent part of life in Indian Country, i.e. the non-Indian context.

In the non-Indian context, for example, a constitution means a certain type of text, embodying a certain type of legal tradition (the Anglo-American constitutional tradition). In the non-Indian legal culture, a court system should have judges with robes, prosecutors with law degrees, and public defenders for indigent defendants.

From inside Indian Country, however, the tribe's constitution may be perceived as having been imposed on the tribe by the federal government, its law making actions subject to approval or disapproval by the Secretary of Interior. Its court system may date back to the days of the nineteenth century, when non-Indian policymakers regulated courts of Indian offenses to punish

⁵See, for example, Felix S. Cohen, *Handbook of Federal Indian Law*, 1982 ed. (Charlottesville: Michie Bobbs-Merrill, 1982), 130-134; and Vine Deloria Jr. and Clifford M. Lytle, *American Indians, American Justice* (Austin: University of Texas, 1983) 14-15, 99-102 for discussions of the Dawes Act and the Indian Reorganization Act; both pieces of legislation are fundamental to any discussion of contemporary American Indian Tribal governments.

⁶For a general discussion of the powers and functions of modern American Indian Tribal governments see Sharon O'Brien, *American Indian Tribal Governments* (Norman: University of Oklahoma Press, 1989), 93-95, 197-238. For a tribe by tribe summary of Tribal governments, see Veronica E. Velarde, *American Indian Reservations and Trust Areas* (U.S. Dept. of Commerce, 1996).

tribal people for practicing their most ancient cultural and spiritual practices and traditions.⁷ The non-Indian perspective may not adequately account for how the tribal experience of conquest and colonial administration by the United States may change and alter perceptions of what Indian self-government means inside Indian Country, where the reacquisition of control over important arenas of tribal life has been an ongoing cultural struggle between Indians and non-Indians with a history dating back decades.

The cultural context of many non-Indian ideas about how a tribal government should look and operate embody very specific and consciously-crafted political and cultural approaches to self-government that may not work for some tribes and their political cultures. For example, for a tribe that has a tradition of self-governance by consensus, or by charismatic leaders, non-Indian notions of what constitutes an independent judiciary may undermine other important checks and balances worked out in the tribe's own complex and historically-alive traditions of self-governance.⁸

Finally, when non-Indians speak of concepts like "police" and "jail," they have ideas in mind that may not correlate precisely with the ways that Indians think and speak of such concepts. This problem of cross-cultural understanding and translation, for example, is evident in the way that an Indian person might describe how tribes traditionally sought to prevent violence

⁷For discussions of Courts of Indian Offenses or CFR courts, see Cohen, 334; and Francis Paul Prucha, *Documents of United States Indian Policy* (Lincoln: University of Nebraska Press, 1990), 160, 187-8.

⁸For examples of differing cultural approaches to self-governance see Stephen Cornell and Joseph P. Kalt, "Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations." In *What Can Tribes Do?*, ed. Stephen Cornell and Joseph P. Kalt (Los Angeles: American Indian Studies Center, UCLA, 1993), 1-59.

against Indian women in the tribal community. There were no “police” to call; other types of social institutions, agents and actors would be called in to intervene. There were also no jails in Indian communities prior to colonization by the U.S. There were no probation services, at least institutionalized in a form that non-Indians might recognize. These facts of life for tribes do not mean that there were no other social institutions capable of preventing violence against Indian women. Punishment, deterrence, and rehabilitation were achieved by means other than imprisonment.⁹

The weaknesses of a research method that relies exclusively on models brought from the outside can only be corrected by trying to understand what tribes are doing to combat violence against Indian women by developing perspectives from inside Indian Country. That is what has been attempted throughout this research. Our evaluation methods were designed to develop tribal perspectives on the fourteen tribal STOP VAIW grant programs that were the subjects of our research.

Tribal Perspectives on Reducing Violence against Indian Women: The Principle of Tribal Sovereignty

From inside Indian Country, perspectives on tribal self-government are shaped by many factors. The complex cultural, political, and legal history of Indian and non-Indian relations plays an important role in understanding Indian self-government and contemporary tribal efforts to reduce violence against Indian women.

⁹For a discussion of contemporary American Indian methods of dealing with violence against Indian women that incorporate traditional elements, see Gloria Valencia-Weber and Christine P. Zuni, “Domestic Violence and Tribal Protection of Indigenous Women in the United States,” *St. John’s Law Review* 69 (Winter-Spring 1995):96-129.

The historical context of tribal self-government in Indian country has been shaped by three core, fundamental principles of United States law: the Congressional Plenary Power Doctrine, which holds that Congress exercises a plenary authority in Indian affairs; the Diminished Tribal Sovereignty Doctrine, which holds that Indian tribes still retain those aspects of their inherent sovereignty not expressly divested by treaty or statute, or implicitly divested by virtue of their status as “domestic dependent nations;” and the Trust Doctrine, which holds that, in exercising its broad discretionary authority in Indian Affairs, Congress and the Executive are charged with fiduciary responsibilities.¹⁰

From the tribal perspective, the most important of these principles, by far, is the principle of inherent tribal sovereignty in United States law. Based on this principle, tribes are treated as sovereign, self-governing entities in the U.S. legal system, able to make and enforce a variety of laws in Indian Country.

The foundational principle of tribal sovereignty in U.S. law extends from recognition that prior to the European colonization of North America, Indians governed themselves free of outside interference or control. This “aboriginal sovereignty” was recognized by Europeans in the New World by treatment of tribes as political entities capable of negotiating treaties and cessions of land, and of entering into military and trading alliances. Thus, there was a long, colonial-era tradition of treaty making with tribes at the time the U.S. Constitution was adopted; a tradition sustained by the federal government into the late nineteenth century.

¹⁰Robert A. Williams, Jr., “Colombus’s Legacy: The Rehnquist Court’s Perpetuation of European Cultural Racism Against American Indian Tribes,” in *Federal Indian Law: Cases and Materials Third Edition*, eds. David H. Getches, Charles F. Wilkinson, and Robert A. Williams, Jr. (St. Paul: West Publishing, 1993), 35-37.

Sovereignty of tribes continues today as an important principle for understanding Indian and non-Indian relations. From the Indian perspective, no principle of United States law is regarded as more central than that of tribal sovereignty, and contemporary tribal efforts aimed at preventing violence against Indian women can only be understood from within the context of tribal sovereignty.

Congressional Plenary Power and Tribal Efforts to Prevent Violence Against Indian Women

Congressional plenary power in Indian affairs is one of the core, fundamental principles shaping the historical context in which tribal self-government in Indian Country operates. Under its plenary power Congress has passed a complex and confusing array of laws that restrict, limit, and in some cases even terminate tribal jurisdiction over Indian country. In other cases, the United States Supreme Court has extended the theory of federal supremacy over Indian affairs embodied in the Congressional plenary power doctrine to hold that tribes, by virtue of their “domestic dependent nation” status, have lost certain attributes of their sovereignty.

From the tribal perspective, these past exercises of Congressional plenary power, and the Supreme Court’s decisions limiting tribal jurisdiction over Indian Country, represent significant barriers to the effective exercise of tribal sovereignty by Indian people. With respect to tribal self-government and programs aimed at reducing violence against Indian women, these barriers present a host of complex, and in certain contexts, near insurmountable challenges to exercising tribal sovereignty over this most important arena of contemporary Indian life. However, the empowerment that results from the development and implementation of tribal government programs, by tribal governments themselves, makes the effort to overcome these barriers

essential.

“Indian Country”

The breadth of Congress’ plenary authority over Indian affairs is illustrated by the fact that Congress holds the power to define “Indian Country,” the very starting point for analysis of jurisdictional questions in federal Indian law. The term “Indian Country,” defined at 18 U.S.C.A. sec. 1151, sets out the geographic area in which tribal and federal laws normally apply, and state laws do not. All lands within the limits of any reservation under the jurisdiction of the U.S. government is “Indian Country,” (sec. 1151(a)), including lands reserved to Indian tribes by treaties, statutes or executive orders. However, not all lands presently occupied by Indian tribes are the product of the federal reservation policy. The lands of the Pueblo Indians of New Mexico, for example, technically are not federally owned reservations. The Pueblo lands are communally owned and held in fee simple. Under sec. 1151(b), these lands, since they are occupied by a dependent Indian community, are “Indian Country.” Finally, Congress passed the General Allotment Act of 1887 under its plenary power in Indian Affairs. Allotment ended the tribal communal ownership patterns for Indian lands on many reservations by allotting and patenting specified tracts within and without reservations to individual Indians in trust or in fee. However, Section 1151(c) includes within the definition of Indian Country all allotted and patented land located within the limits of an Indian reservation and all Indian allotments to which Indian title has not been extinguished, even if not located within a reservation.¹¹

¹¹See Robert N. Clinton, “Criminal Jurisdiction Over Indian Lands: A Journey Through A Jurisdictional Maze,” in Getches, Wilkinson, and Williams, *Federal Indian Law Third Edition*, 461-4.

The very definition of Indian Country reveals some of the complexity within which tribal self-government must operate. Tribes can exercise jurisdiction only within the areas set out in the complex provisions of 18 U.S.C.A. section 1151. Supreme Court case law interpreting the definition has made the situation even more complex. On many reservations, Congress, as part of the allotment process, opened up large blocks of tribal land to non-Indian homesteading. The Court, in a series of recent cases, has developed an ad hoc, case-by-case approach to determine whether Congress intended to "disestablish" a reservation in opening it up to non-Indian homesteading. In *Hagen v. Utah* (1994), for example, the Court held that a series of early 1900's Congressional acts diminished the Uintah Valley reservation in Utah, thus giving the state jurisdiction over crimes committed by Indians within the former reservation boundaries. *Hagen* is not an isolated case. In many parts of the country, tribal governments must operate programs where their jurisdiction is continually challenged by non-Indians and their state and local governments.

Congressional Plenary Power and Limits on Tribal Jurisdiction

Even within the defined limits of Indian Country, Congress has exercised its plenary power in Indian affairs to supplant, limit, or in some cases, terminate tribal jurisdiction and the exercise of tribal sovereignty. The Supreme Court has made matters even more complex by holding that tribes, by virtue of their status as domestic dependent nations, have implicitly been divested of important powers of self-government over Indian Country. In 1885, Congress, as part of its broad-based campaign to assimilate tribal Indians (the Allotment Act of 1887 was the centerpiece of this campaign), passed the Major Crimes Act, which mandated federal jurisdiction

and prosecution over seven enumerated felony crimes, including murder, manslaughter, rape, and serious assault, when the perpetrator is an Indian. This Act essentially overturned the decision in the Supreme Court case, *Ex Parte Crow Dog*, which had held that tribes had exclusive criminal jurisdiction over crimes committed among Indians.

The effect of the Major Crimes Act was to supplant federal for tribal jurisdiction over felony prosecutions of tribal members, an effect that was essentially codified in another important exercise of Congressional plenary power in Indian affairs, the Indian Civil Rights Act (ICRA) of 1968. The ICRA effectively overturned the Supreme Court's decision in *Talton v. Mayes*, holding that the Bill of Rights of the U.S. Constitution did not affect the powers exercised by tribes over those individuals who came under their jurisdiction. Besides extending most of the important substantive provisions of the Bill of Rights to tribes (e.g., the due process and equal protection clause, the protections against self-incrimination, illegal search and seizure, and jury trial, and the right to counsel at one's own expense), the ICRA also limited tribes to misdemeanor forms of punishment; no more than one year imprisonment, and no more than a \$5,000 fine, per offense.

In some cases, Congress has exercised its plenary power in Indian affairs to transfer jurisdiction over Indian Country from the federal government to the states surrounding the reservation. Public Law 280, described below, is the most well-known example of this type of transfer of jurisdiction. However, there are other instances where Congress has created a hopelessly confusing jurisdictional context in which tribes and the states may assert concurrent or exclusive jurisdiction over the same activities in Indian Country. In other cases, no governmental entity may be assured of its sovereign authority to exercise jurisdiction because of the confusion

created by congressional legislation.

Congress is not the only reason for the confusing jurisdictional context in which tribal government programs aimed at reducing violence against Indian women must operate. The Supreme Court in recent years has issued a series of decisions limiting tribal jurisdiction over Indian Country based on the principle that tribes have lost certain powers of sovereignty by virtue of their status as domestic dependent nations. In *Oliphant v. Suquamish Indian Tribe*, the Court held that despite the lack of a treaty or statute divesting tribes of criminal jurisdiction over non-Indians, tribal governments could not criminally prosecute non-Indians for crimes committed in Indian Country. The Court followed this devastating blow to the integrity and consistency of tribal criminal jurisdiction over the reservation with its decision in *Duro v. Reina* (1990), which held that tribes do not have criminal jurisdiction over non-member Indians who commit crimes on the reservation. Congress took the unprecedented step of quickly acting to reverse the *Duro* decision in a statute which declared that tribes did possess the inherent sovereignty to prosecute non-member Indians for crimes committed in Indian Country.

The Trust Relationship and STOP VAIW Grant Programs

From the tribal perspective, these congressional and Supreme Court mandated limits on tribal jurisdiction create a complex and often confounding arena in which to design and administer tribal programs for preventing violence against Indian women. The types of common problems that a STOP VAIW grant program may encounter, such as getting court orders enforced by other jurisdictions, dealing with turnover or lack of understanding from elected and appointed officials, are further compounded in the face of jurisdictional uncertainty that can exist

for many tribal governments over the scope of their authority in Indian Country. Further compounding the difficult situation these tribal programs confront is the fact that while significant outlays have been made by tribes and the federal government in improving their justice systems, many tribes still can not afford to finance their own jails, probation services, and other alternative programs to incarceration. Some tribes have structured their court systems quite differently from non-Indian systems in response to this chronic lack of resources, or in some cases, because of their own cultural traditions, have simply designed systems that they feel better fit their needs. Yet, with so many of these systems in a relatively early stage of development, growing pains are, not surprisingly, being encountered along the way.

From the tribal perspective, therefore, the Trust Doctrine, which holds that in exercising its broad discretionary authority in Indian Affairs, Congress and the Executive are charged with fiduciary responsibilities, has an important function to play in contemporary Indian life as one of the foundational core principles defining the historical context in which modern tribal self-government finds itself situated. Programs like the STOP VAIW grant play a vital role in empowering tribal governments, thus enabling them to reassert and strengthen their sovereignty and control over an importantly regarded arena of tribal life. But the government-to-government relationships established between tribes and the federal government in developing and nurturing such programs require that both partners understand each other's perspective. This is the primary reason why, in conducting this evaluation, we have been careful and sensitive to the views from Indian Country on how to design and improve programs for tribes to reduce violence against Indian women.

Jurisdictional Context for STOP VAIW Grants

Because of the unique relationship between American Indian governments and the United States federal government outlined above, tribal governments face an array of legal challenges with which no other group in the United States must contend. Specifically, there are four important jurisdictional issues facing a number of STOP VAIW programs: 1) the Major Crimes Act; 2) "checkerboarding" of reservations as a result of historic federal Indian policies; 3) Public Law 83-280 (P.L. 280); and, 4) the distinction between full faith and credit and comity. These four jurisdictional complexities are legal and legislative issues which a number of FY 1995 STOP VAIW grantees faced in developing and implementing their STOP VAIW programs.

The Major Crimes Act

The Major Crimes Act, as briefly discussed above, is another assimilation era policy which has a direct impact on STOP VAIW programs. The Major Crimes Act and the Indian Civil Rights Act work together to limit what crimes a tribal court can prosecute and the extent to which a tribal court can punish a convicted perpetrator. If an Indian defendant commits an enumerated violent crime (as defined by Major Crimes Act) against an Indian woman, the federal government has the jurisdictional authority to prosecute the case. In terms of a domestic assault, a case could become federal if there is a deadly weapon involved, if the assault amounts to attempted murder, if the assault results in "serious bodily injury," or if the victim is raped or murdered. The dilemma for STOP VAIW programs and for tribal prosecutors and law enforcement officials, in general, is that federal declination of these cases is very high, and therefore serious crimes committed against an Indian woman have the potential to go

unpunished.¹² The Major Crimes Act does not expressly terminate tribal jurisdiction in these cases, but tribal courts are limited by the ICRA to punishments that do not exceed one year of incarceration and a \$5000 fine. While many tribes do have provisions within their tribal legislative codes for handling Major Crimes, whether or not a tribe has the jurisdictional authority to take Major Crimes case after federal declination is still an essentially unresolved issue. The net result of the high rates of federal declination and the limits imposed by the ICRA is that there is a significant potential for these crimes to fall through a jurisdictional loophole and never be brought before any court. Again, justice is not served for the victim.

“Checkerboarded” Reservations

The jurisdictional equation in Indian Country is further complicated by the “checkerboarding” of many reservations. Checkerboarding resulted from the federal Indian policy of allotment, which was implemented through the General Allotment Act, discussed above. Under the Allotment Act, Indian reservations were divided into small tracts of land (generally 160 acres), which were then assigned to individual tribal members. The “remaining” lands within the reservation boundaries, those lands not allotted, were then opened up to homesteading by non-Indians. Because of the homesteading on unallotted land and the alienation of allotments from Indian ownership, many contemporary Indian reservations suffer from checkerboard land ownership. Technically these non-Indian held parcels are not Indian Country, and are in fact subject to local and state jurisdiction.

¹² Some sources suggest that federal declination of cases in Indian Country is as high as 75%. See Getches, Wilkinson, and Williams, *Federal Indian Law Third Edition*, 557-560 for a complete discussion of the Major Crimes Act and federal declination of these cases.

Checkerboarding of Indian reservations has a significant impact on STOP VAIW programs because it invites jurisdictional challenges in all arenas, including domestic violence cases. For instance, jurisdictional challenges may arise in tribal criminal domestic violence prosecutions for crimes which occurred within the reservation boundaries but on non-Indian owned land. Similar jurisdictional challenges may occur in civil actions involving orders for protection. The alleged perpetrator may challenge the jurisdiction of the court, placing the case into a jurisdictional limbo until the court sorts out the jurisdictional question. For domestic violence victims the jurisdictional limbo causes delay and confusion, and may ultimately result in a dismissal, failure to prosecute the case, or enforce the protection order. In the interim, the victim may remain unprotected and the perpetrator may remain unrestrained and unpunished. If the original court dismisses the criminal or civil action, there is no guarantee that it would be handled by another court or prosecutor's office. If this were to occur, the violent behavior would go unpunished and the victim would receive no justice or protection.

Checkerboarding remains a major obstacle for modern STOP VAIW programs to ensure that Indian women are protected from abuse, and that justice is served. Because the U.S. Supreme Court has adopted an ad hoc approach to these types of jurisdictional issues, and because of the inherent complexities, the problems associated with checkerboarding have no immediate, universal solution. STOP VAIW programs are attempting to handle such difficulties as they arise, but the fact remains that the jurisdictional environment created by checkerboarding may place a victim in a more perilous position and place justice out of reach.

Public Law 280

Public Law 280, passed in 1953 and amended in 1968, established limited state jurisdiction over criminal and some civil acts in Indian country without abolishing tribal jurisdiction. Therefore, in those states which have assumed jurisdiction under P.L. 280, the powers to govern are concurrent between the tribes and the state. P.L. 280 was altered with the passage of the 1968 Indian Civil Rights Act (ICRA), which contained a provision requiring tribal consent before a state could assume jurisdiction in Indian country. Essentially, the ICRA prevented states after 1968 from assuming jurisdiction in Indian country, but those states that had acted on P.L. 280 between 1953 and 1968 retained jurisdictional authority over tribes. A common result is that the tribes in states that assumed jurisdiction under P.L. 280 do not have fully developed tribal court systems and frequently do not have tribal police units. In terms of cases involving violence against Indian women, tribes that find themselves in this situation often have little input into the development or implementation of domestic violence codes and protocols for state and local law enforcement exercising jurisdiction over Indian lands. With no voice in the legislative or criminal justice processes, tribal communities in P.L. 280 states are limited in the extent to which they can develop and implement culturally relevant criminal justice responses to violence in their communities.

Full Faith and Credit and Comity

Full faith and credit and comity have emerged as significant jurisdictional issues in domestic violence cases for many of the fourteen FY 1995 STOP VAIW grantees, particularly with reference to protection and/or restraining orders. While the VAWA refers to "full faith and

credit," that terminology has not been uniformly extended to treatment of tribal court orders and judgments. As pointed out in Cohen's Handbook of Federal Indian Law (1982 Edition):

The full faith and credit clause of the constitution applies of its own force only between the states, but Congress has extended its application to require "the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken." Whether this statute includes Indian tribes has resulted in conflicting decisions of state courts (385).

Since the issue of whether or not Indian tribes qualify under the full faith and credit clause of the constitution is at issue, the judicial principle of comity has been deemed by many to be a more appropriate legal assertion. Comity, which has its origin in international law, is the courteous recognition of the laws and judicial decisions of the courts of one state or jurisdiction by another state or jurisdiction. However, comity, unlike full faith and credit, cannot be claimed as a right, but only as a favor or courtesy.¹³ Thus, little recourse exists for a tribal victim of domestic violence when an off-reservation law enforcement agency fails to recognize and enforce a tribal court order. In some parts of Indian country, as unfortunately with many states, this failure to recognize the orders of their courts is a significant challenge.

Tribal Governing Structures

As discussed earlier, the United States Government entered into numerous treaties with the indigenous peoples of this country. These treaties symbolize and establish the formal recognition of the inherent power and sovereign nation status of the tribes. Although the United States government unilaterally ended treaty-making in 1871, it continued to negotiate agreements

¹³Cohen, *Handbook of Federal Indian Law*, 384.

with the tribes through Executive Orders. Through both treaties and Executive Orders, tribal land was ceded, and reservations of land set aside, in exchange for monetary payments and guarantees of ongoing health, education, housing, and other benefits.

There are several commonly recognized periods of federal Indian policy, which is the “central determinant of political sovereignty.”¹⁴ These various policy periods often reflect the conflicting goals of 1) assimilation and acculturation of tribal people, and 2) tribalism and tribal self-determination. These policies have often been implemented through federal legislation. One of the most important policy eras for Indian tribes in America came during the 1930s with the passage of the Indian Reorganization Act.¹⁵

The passage of the Indian Reorganization Act of 1934 (IRA) introduced an era of tribal self-determination. A primary purpose of the IRA was to promote a “revival of tribalism” through economic and governmental development.¹⁶ The IRA provided a mechanism for tribes to organize and adopt written constitutions, formally developing their governmental powers. However, only limited tribal autonomy was sanctioned, as the IRA also included certain limits and a significant measure of federal supervision.¹⁷ Essentially the IRA allowed tribes to be recognized if they were willing to adopt a constitution that was complementary to the United States constitution.

Tribal constitutions adopted under the IRA were generally “boilerplate” constitutions, based upon United States conceptions of governing structures, not tribal custom.¹⁸ While some

¹⁴Cornell, *What Can Tribes Do?*, 13. See Cohen for a lengthy discussion of policy periods.

¹⁵ Act of June 18, 1934, Ch. 576, 48 Stat. 987, codified as amended at 25 U.S.C. Secs. 461-479

¹⁶Cohen, *Handbook of Federal Indian Law*, 147.

¹⁷*Ibid.*

¹⁸*Ibid.*

IRA constitutions were individualized, for the most part tribal constitutions of this era largely mirror the U.S. constitution, with a common exception being a lack of clearly stated separation of powers. Prior to contact with Europeans, Native peoples had numerous forms of government structures. Some communities may have had decentralized forms of governance, where the situs of the decision-making rested primarily with individual families. Some may have had a centralized governmental structure. Some tribes maintained a theocratic form of government. The diversity of governing structures in pre-contact America resulted in some conflict with the “one size fits all” nature of the boilerplate constitutions implemented during the IRA era. The motivation for tribes to develop an American style constitution was strong, though, as it was essentially the only way that tribal governments would be recognized by the United States. If a tribe was reluctant, coercion was often used to ensure tribal adoption of the IRA constitutions.¹⁹ The result is that today, approximately 50% of tribes have IRA era constitutions.²⁰

For some tribes, the adoption of an IRA constitution, “brought disruption and heightened intra tribal factional disputes.”²¹ Such disruption has translated into a lack of legitimacy and respect for the formal, constitutional, institutions of governance because they do not “match” the cultural standards and informal institutions of the tribal society.²² In those situations, IRA constitutions have become “engines of conflict” rather than avenues to resolve conflict.²³ Due to the lack of cultural compatibility inherent in IRA constitutions, many tribes continue to struggle under their IRA form of governance.

¹⁹Cohen, *Handbook of Federal Indian Law*, 150

²⁰O’Brien, *Tribal Governments*, 83

²¹Cohen, *Handbook of Federal Indian Law*, 150

²²Cornell, *What Can Tribes Do?*, 17

²³*Ibid.*

The boilerplate IRA constitutions imposed a centralized model of government upon tribes, and institutionalized both the Tribal Council system and the election process in Indian Country. Tribal Councils are generally the governing boards for IRA tribes. Tribal Councils are usually composed of executive officers (Chief Executive/Chairman or President; Vice-Chairman, Secretary, Treasurer) and Council members. The number of Council members varies, but they are generally elected by their constituent districts for set terms. Officers may either be elected at large or by the other Council members. Often, the Tribal Council is constitutionally empowered with legislative, executive, and judicial authority. Most IRA Tribal Councils are empowered to enact and enforce laws, and adopt and implement policies. A separate judicial system may be provided, but it may not be an independent branch of government. The Tribal Council may retain authority to appoint, hire, or fire judicial personnel (such as judges and prosecutors).²⁴ For IRA tribes, Tribal Councils enjoy a broad range of governmental authority, including the power to enact and implement domestic violence tribal legislative codes and policies, and oversee their enforcement.

Tribes that did not adopt an IRA constitution retained their existing forms of governance, based upon their own cultural and traditional political standards. Today, those tribes may or may not have adopted a written constitution to formalize their governing structure. Others may have extensive codification of their laws, but not a written constitution.

Tribal people in Alaska have a unique situation and distinctive legal rights. Under the Alaska Native Claims Settlement Act of 1971 (ANSCA),²⁵ indigenous land title was extinguished

²⁴O'Brien, *Tribal Governments*, 3.

²⁵See 43 U.S.C.A. Secs. 1601-1628

in exchange for land rights and monetary payments. Land title was received by Native-run corporations, and corporate stock is held by individual Alaskan Native people.²⁶ The ANCSA did not "limit the tribal governing authority of the Native villages," some of which had organized under the IRA and some of which retained their traditional form of government.²⁷ Today, federal Indian policy and law remain in Alaska, although the unique status of Native Alaskan villages that resulted from the ANCSA remains ambiguous.²⁸

Law Enforcement in Indian Country

A significant measure of sovereignty in American Indian and Alaska Native communities is related to law enforcement. Because American Indian tribal governments are limited sovereigns with a significant degree of federal intervention, policing in Indian Country is directly related to a number of federal legislative initiatives. In addition to the legislation discussed below, grant programs like STOP VAIW and Community Oriented Policing Services (COPS) are providing tribal communities with the resources to develop and implement culturally compatible, community oriented policing. The following description of policing in Indian Country provides context and a point of reference for specific discussions of STOP VAIW grantee law enforcement.

²⁶ David H. Getches, Charles F. Wilkinson, Robert A. Williams, Jr., *Federal Indian Law: Cases and Materials Fourth Edition*, eds. David H. Getches, Charles F. Wilkinson, and Robert A. Williams, Jr. (St. Paul: West Publishing, 1993), 12, 908

²⁷Ibid., 909.

²⁸Ibid., 911.

There are essentially five types of law enforcement in Indian Country.²⁹ These different types of law enforcement are not mutually exclusive, and frequently operate simultaneously within a reservation. The five types of law enforcement are:

- **BIA:** The BIA provides law enforcement services for a number of tribal communities. BIA police are federal officers who report to the Bureau (which is housed in the Department of Interior), and have little accountability to the tribes they serve.
- **P.L. 638:** The 1975 Indian Self Determination and Education Assistance Act (Public Law P.L. 93-638) provides the opportunity for tribes to contract with the BIA to take over certain specified functions and/or services previously provided by the Bureau. Tribes that exercise this right under P.L. 638 agree to some oversight, in the form of reporting, by the BIA in exchange for funding to provide these services.
- **Tribally Funded:** Tribally funded police enjoy perhaps the most freedom to implement community oriented ideas within law enforcement. Tribally funded police are accountable to the tribal government directly, with no federal oversight. Because of the freedom inherent in these agencies, tribally funded police vary significantly from reservation to reservation in terms of training, policies and protocols.
- **Self Governance:** The Indian Self Determination Act of 1994 (H.R. 4842) provides tribal governments with the power to petition the Secretary of Interior to grant funds for the purpose of "strengthening or improvement of tribal government," including providing law enforcement services. While there is a reporting requirement under Self Governance, the nature and the content of reporting are not enumerated.
- **State Law Enforcement under Public Law 280:** Under P.L. 280, discussed above, tribal communities fall under the jurisdiction of state and local law enforcement. Because of the remote locations of some tribal communities, xenophobia and racism there are problems with non-Indian law enforcement providing services to Native populations. As a result, some P.L. 280 tribes are forced to develop their own community oriented security or do without these services.

Federal Prosecution and Coordination in Indian Country

As previously indicated, law enforcement problems, including prosecution of domestic

²⁹The following discussion of American Indian law enforcement is taken from Luna, "The Growth and Development of Tribal Police," *Journal of Contemporary Criminal Justice*, 14(1), 75-86. (February, 1998)

violence cases, can be extremely complex. This is particularly true when the prosecution of a domestic violence case depends upon federal prosecution. A cooperative network between tribal and federal law enforcement agencies would certainly enhance the probability of a successful prosecution. In addition, clear federal guidelines for investigation and prosecution decisions would enhance those prosecutions, as well. The reality in Indian Country, however, is that the distance, both geographic and cultural, between tribal criminal justice systems and federal officers is great.

Federal prosecution of domestic violence cases that occur in Indian Country may involve various federal statutes. The Major Crimes Act, and federal Domestic Violence and Firearms statutes, are possible sources for charging decisions in situations involving domestic violence. As discussed earlier, the enumerated Major Crimes include the most serious domestic violence incidents that involve a deadly weapon, a rape, or the injuries that reach the level of "serious bodily injury," including attempted murder and murder. Federal domestic violence laws include the criminal intent coupled with interstate travel to either: commit domestic violence; commit stalking; or, commit a violation of a protection order.³⁰ Federal firearm offenses relating to domestic violence include: possession of a firearm while subject to a protection order (18 U.S.C. Sec. 922(g)(8)), transfer of a firearm to a person subject to a protection order (18 U.S.C. 922(d)(8)), and transfer of a firearm to a person convicted of a misdemeanor crime of domestic violence (18 U.S.C. Sec. 922(d)(9)).

It is in the process of investigation and prosecution of those crimes listed above that federal and tribal agency cooperation is a necessity. Generally, when a crime of domestic

³⁰ Federal Domestic Violence Statutes, 18 U.S.C. Sections 2261, 2261A, 2262

violence occurs in Indian Country, the tribal police will be the first to respond. That would generally not be true in P.L. 280 states where tribes may not have their own judicial systems. Some of the most important evidence needed to successfully prosecute domestic violence cases is gathered at the scene of the crime. The arresting officer is usually the first to make a determination whether the injuries meet the level of seriousness or involve the requisite elements of the federal statutes mentioned above. However, the tribal prosecutor would make the final decision about what crime(s) should be charged, and whether the case should be referred to the United States Attorney's office for prosecution. Once referred, the tribal law enforcement agency may be called upon to assist in further investigation.

As indicated earlier, the federal declination rate for Indian cases has been reported at about 75 percent. There are no statistics currently available for federal declination in domestic violence cases. Federal decisions to accept or reject cases for prosecution appears to be on a case by case basis. The primary criteria is whether there is a reasonable likelihood of conviction. Generally, a "winnable" case is one in which there is a cooperative relationship in the investigation and prosecution process between tribal and federal agencies. These ad hoc federal decisions have created a perception in Indian Country that federal enforcement of major crimes is severely lacking, and that federal prosecution is more vigorous when non-Indians are involved.³¹ As suggested earlier, clearer federal guidelines would likely provide more effective prosecutions of domestic violence crimes in Indian Country. However, the partnership between federal agencies and tribal governments resulting from the VAWA increases the likelihood of successful prosecution.

³¹ Getches, Wilkinson, Williams, *Federal Indian Law Third Edition*, 558.

Part II:
1995 STOP VAIW Grantees and
STOP VAIW Program Activities

STOP VAIW Program Purpose and Requirements

The primary purpose of the STOP Violence Against Indian Women Discretionary Grants Program is to reduce violent crimes against Indian women. The STOP VAIW program provides Federal financial assistance to Indian tribal governments to develop and strengthen the response of tribal justice systems to violent crimes committed against Indian women. The STOP VAIW program encourages tribal governments both to develop and implement effective strategies tailored to address their unique circumstances in responding to violent crimes against Indian women, and to develop and enhance services provided to Indian women who are victims of violent crimes.

The STOP VAIW program is built upon the recognition that reducing violent crimes against Indian women and enhancing the safety of Native women necessitate the coordination of all tribal justice system components and community service providers. The STOP VAIW program therefore requires a coordinated and integrated approach. For the purposes of the STOP VAIW program, a coordinated and integrated approach entails a partnership between law enforcement, prosecutors and the nonprofit, non-governmental service providers who assist Indian women who have been victims of domestic violence and sexual assault.

In an effort to ensure the development of a coordinated community approach, the Violence Against Women Act provides a Mandatory Grant Allocation Formula for all grant awards. The Mandatory Grant Allocation formula requires that at least 25 percent of the total

grant awards be allocated respectively to law enforcement, prosecution, and nonprofit, non-governmental victim services programs. The remaining 25 percent is considered a discretionary portion which may be used to address any of the above stated purposes, court-based initiatives, probation services and supervision, and certain batterer intervention programs. Some tribal governments do not have all of the separate components of law enforcement, prosecution, and nonprofit, non-governmental victim services, within their tribal justice systems. Therefore, some exceptions have been granted to tribal governments from the Mandatory Grant Allocation formula in certain instances where they cannot meet the requirements. Tribal governments that do not have law enforcement or prosecution (as defined in the grant guidelines) are not required to allocate funds to these areas.

“Victim services” (as defined in the grant guidelines) is a “nonprofit native organization not affiliated with tribal government but within the jurisdiction or service area of the tribal government that assists domestic violence or sexual assault victims.” Where nonprofit, non-governmental victim services do not exist within the jurisdiction or service area of the tribal government, tribal governments are authorized to allocate 25 percent of the programmatic funds to a tribal government victim services agency. In either situation, tribal governments are still required to allocate at least 25 percent to victim services. This has created a difficulty in that many tribes do not have these components within their systems.

The following chapters report on the findings of the University of Arizona STOP VAIW grant evaluation conducted from 1996-1998. The first chapter in this section provides some basic information about the tribal communities who received 1995 STOP VAIW funds. The next chapters report on findings in specific areas of STOP VAIW programs. These chapters will

focus on: Coordinated Community Response, Victim Services, Law Enforcement, Prosecution and the Discretionary Spending element of the STOP VAIW grant.

Chapter 2 1995 STOP VAIW Grantees

In 1995 the first STOP VAIW grants were awarded to American Indian and Alaska Native communities. Eleven tribal communities and three tribal consortia were funded through the STOP VAIW program in 1995. Tribal consortia allow smaller tribes the opportunity to join together and gain access to resources that may otherwise be out of reach. In 1995, the first year of the STOP VAIW program, tribal grantees could request an initial \$75,000 grant. An additional \$9,000 could be requested in the second year of their STOP VAIW program. Essentially the tribal communities evaluated in this report received a total of \$84,000 for two years to develop and implement their STOP VAIW programs.

Each of these fourteen communities and consortia are culturally, geographically, socially, and politically unique. As outlined above, Indian Country is different than any other part of America. Indian communities are culturally distinct sovereigns, with criminal justice systems and methods of crisis intervention for abused Indian women that may be rooted in centuries-old traditions, or may have roots in historic United States federal Indian policy. Each of the initial fourteen tribal grantees has different methods of addressing the problems related to violence against Indian women, but each has the same primary goal: protecting the safety of Indian women.

The TLPP at the University of Arizona made a commitment to the STOP VAIW programs being evaluated to maintain anonymity in reporting the results of the evaluation. Confidentiality was maintained in all phases of the evaluation. Confidentiality agreements

enhanced rapport and respected any community concerns regarding research improprieties and exploitation which they may have faced in the past. The following general, anonymous profiles of each of the fourteen grantees will provide some basic context for the information contained in this report.³²

Consortia

Consortium One is comprised of five tribes. The consortium agency, the STOP VAIW grantee, is a public, nonprofit which provides planning, direction and services to individual Indians and member tribes. Each of the five reservations within this consortium are small and rural. Three of the reservations within Consortium One have land bases that are between 4,000 and 5,000 acres, one is approximately 2,000 acres and the other is less than 1,000 acres. The populations of the Consortium One tribes are also small: two of the reservations have populations between 1,000 and 2,000; one has approximately 600-700 people residing within reservation boundaries; the remaining two member reservations have populations between 150 and 200.

All of the tribes within Consortium One have their own tribal courts and their own police. The Consortium One agency also maintains an Inter-tribal court system for member tribes. One of the Consortium One tribes maintains its own jail, while the other tribes must contract out to other jurisdictions for incarceration services. To further complicate the criminal justice situation

³²The source for most of the following profiles is Veronica Tiller's *American Indian Reservations and Trust Areas* (Washington: U.S. Department of Commerce, 1996). In addition to Tiller, some of the information in the profiles was provided by the tribes and was gathered from *The Gale Encyclopedia of Native American Tribes* (Sharon Malinowski and Anna Sheets, eds. Detroit: Gale Publishing, 1998).

at Consortium One, all of the tribes within Consortium One fall under Public Law 280 jurisdiction, but the application of the law differs with each tribe as a result of ICRA and other legislative provisions that followed. For example, one of the Consortium One tribes has portions of their reservation which fall under P.L. 280 and portions that do not, while another Consortium One tribe falls completely under P.L. 280. The net result is that when a crime against an Indian woman is committed on a Consortium One reservation, there may be extensive jurisdictional issues to resolve before any real criminal justice action is taken.

Consortium Two is comprised of eight communities. Consortium Two was established to assist the member communities with health, education, welfare and economic development. The Consortium Two agency is based in a centrally located member community. The largest of the communities has a land base of 95,000 acres, the smallest has 11,600 acres. The majority of the communities (five) cover between 12,000 and 26,000 acres. The largest population of the eight communities is approximately 10,000; of these residents, approximately 2,000 are enrolled tribal members. The smallest population is approximately 700. The majority of the Consortium Two communities (five) have populations between 1300 and 2500. The communities that make up Consortium Two have all been inhabited for at least 500 years, and in some cases Consortium Two communities have existed for over 1000 years.

Each of the Consortium Two member communities has a unique government structure that reflects the will and needs of the people. In many cases, the Consortium Two communities maintain governments that combine influences from ancient, non-Western political systems, Spanish colonial political systems, and contemporary American forms of government. For cases involving violence against Indian women, a perpetrator may be brought to justice before a

contemporary American-style court with a tribal judge and a tribal prosecutor. On appeal the accused may go before a non-Western style or "traditional" tribal court, where attorneys are not allowed and family members of the accused may speak on his behalf. Very frequently these "traditional" courts are made up of either the tribal council or a committee within the council. The American style court in each of the communities is served by a traveling prosecutor, a position that is partially financed by STOP VAIW funds. The traveling prosecutor is a novel approach to the dilemma of retaining a prosecutor in each of the member communities, which are small and generally would not have the resources to fund their own prosecutor. Law enforcement in six of the communities is provided by tribal police, and the remaining two communities rely on BIA police for law enforcement services. In 1997, when the evaluation team visited Consortium Two, none of the member communities had a jail, however there were plans to build a jail in one of the larger communities. Consortium Two communities contract incarceration services out to nearby counties or to other tribal communities in the region.

Consortium Three serves 42 remote communities. The Consortium Three agency is located in a regional metropolitan area and is a nonprofit organization that was set up to serve an advisory role, provide training and advocacy, and administer a number of grants, such as STOP VAIW, for the member communities. Because the area served by Consortium Three is large and fairly remote, much of the work done by the agency is conducted by telephone, through a regional newsletter, and at periodic meetings at the Consortium Three headquarters.

The communities in Consortium Three are small. All of the Consortium Three communities fall under P.L. 280 jurisdiction. Less than 20% of the member communities have a court system similar to American courts. Many of the communities rely on leaders, public safety

officers (see discussion below) and decisions by community consensus to resolve conflicts.

Approximately half of the Consortium Three members have law enforcement on site in the form of public safety officers. These officers are generally employed by non-profit agencies, like the Consortium Three agency, but since these communities exist within a P.L. 280 state, the officers enforce state laws. While they are hired and administered by the non-profit agency, they are subject to oversight by state troopers and are held accountable to community based tribal councils. Essentially, these officers are representatives of the state police force, which has jurisdiction, but they are frequently community members. Since the public safety officers live within the communities they serve, they are considerably more knowledgeable about the culture of the community than a state trooper would be.

Tribal Communities

Tribal Community (TC) One is home to approximately 8,000 people, and is comprised of roughly 848,000 acres that straddles the border of two states. The tribal government operates under a constitution that was approved in the late 1950s. The TC One government consists of a 15 member tribal council, with members representing the various districts on the reservation, and is headed by a tribal chairman. TC One relies on both BIA and tribal police officers.

Approximately 60% of the officers are tribal police, funded primarily with a Community Oriented Policing Services (COPS) grant, and 40% are Bureau officers. TC One operates a very small jail on the reservation.

Tribal Community Two encompasses approximately 950,000 acres. The population of the reservation is approximately 13,000. The modern TC Two government dates back to the

Indian Reorganization Act (IRA) of 1934. The tribal constitution and charter, passed in the 1930s, designate a tribal council with a president and an executive committee. In 1993 TC Two took over law enforcement services from the BIA under P.L. 638. TC Two also operates their own jail on the reservation.

The Tribal Community Three reservation encompasses approximately 1,771,000 acres. The population of the TC Three reservation is 20,806. The modern government is rooted in the IRA era, with a constitution approved in the mid 1930s. TC Three is governed by a 16 member tribal council which is led by an executive committee. Tribal elections, held every two years, elect the president, vice president and nine district representatives. The tribal court system, established under the tribal constitution, consists of one chief and three associate judges who are named by the tribal council to four year terms. TC Three took over some law enforcement services under P.L. 638 in the mid-1970s and they operate their own jail on the reservation.

The Tribal Community Four reservation is home to approximately 1,900 people living on approximately 120,000 acres. TC Four has a culturally diverse population, with four distinct Native peoples living on the reservation. The government of the TC Four reservation dates to the IRA era. The tribal constitution and charter were adopted in the mid 1930s. The governing body is made up of a nine member business committee elected by popular vote from the various districts on the reservation. The TC Four government took over reservation law enforcement services under the Indian Self Determination Act of 1994, and operates a small jail on the reservation.

The Tribal Community Five reservation is comprised of approximately 138,000 acres. The population of the reservation is approximately 32,000, but there are only approximately

1,900 enrolled tribal members living on the reservation. Approximately 2,100 tribal members live off of the TC Five reservation. The modern government on the TC Five reservation dates to the IRA era, but the constitution and bylaws were amended and approved in the mid 1980s. The tribal government is administered by a tribal council which is made up of twelve members representing the three electoral districts on the reservation. The TC Five government took over some reservation law enforcement services under P.L. 638 in the 1970s. Since the TC five reservation has no jail they must contract incarceration services out to a neighboring county.

The Tribal Community Six reservation is comprised of approximately 4,000 acres. The TC Six reservation has approximately 500 enrolled members residing within its boundaries and approximately 500 enrolled members living outside the reservation. The TC Six reservation is governed by a twelve member tribal council. The modern tribal government dates back to the IRA era, with the constitution and bylaws being passed in the mid 1930s. The members of the tribal council are elected to serve two year terms. The TC Six government took over policing services on the reservation under P.L. 638 in the mid 1970s. TC Six has no jail, so they are forced to contract out incarceration services to a neighboring county.

Tribal Community Seven is not situated on a reservation, but is comprised of approximately 12,000 allotments, which amount to roughly 3,000,000 acres. There are approximately 32,000-36,000 TC Seven members who live in the region. Although TC Seven has been divided by allotments and the presence of a large number of non-Indians, the tribe remains politically cohesive. The first tribal constitution was adopted by TC Seven members in 1867. Due to allotment era policy, the formal tribal government was dismantled by the end of the 19th century, and tribal lands that were formerly held collectively were allotted to individual

members. In the early 1970s, the tribe freely elected a principal chief. A new tribal constitution was adopted in the late 1970s that outlines a government comprised of an elected 31 member tribal council representing the various districts under TC Seven jurisdiction and a principal chief.

Because the TC Seven landbase is essentially an informal reservation with a large population of non-Indians, jurisdiction is a significant issue for the tribe. Both the tribe, who run their own police force, and the federal government have jurisdiction over most of the land. The presence of eight county governments within the boundaries of the TC Seven land base further complicates jurisdictional issues. The tribe has a long standing working relationship with at least one of these counties and is working on developing cross deputization agreements with the remaining counties. The tribe does not maintain its own jail, but contracts with neighboring counties for incarceration services.

Tribal Community Eight is located on a federal reservation comprised of approximately 1,500,000 acres with approximately 17,000 tribal members. As with TC Seven, TC Eight has a large non-Indian population residing on the tribal lands. As of late 1998, the tribal police force had been reduced significantly, with BIA officers providing most law enforcement services on the reservation. The TC Eight Community relies on a Code of Federal Regulation (CFR) court.

The Tribal Community Nine reservation is comprised of approximately 53,000 acres. The TC Nine reservation, home to two linguistically and culturally distinct peoples, is adjacent to a large metropolitan area. The population of the reservation is approximately 5,000. The tribe runs its own law enforcement agency as well as an on-reservation jail, which has a significant overcrowding problem. A tribal council that was established under an IRA era constitution governs TC Nine. The council is made up of a president, vice-president, and a popularly elected

council.

Tribal Community Ten is comprised of approximately 800,000 acres. The reservation population is approximately 2,700. The TC Ten government dates to the IRA era and is run by an elected president, vice-president, and council. The TC Ten government operates its own jail, tribal police force and also utilizes a BIA criminal investigator.

Tribal Community Eleven encompasses approximately 90,000 acres. There are approximately 1,800 enrolled tribal members living within the TC Eleven boundaries, and an additional 1,200 living off tribal lands. TC Eleven is a very old community with an independent civil government and tribal court. The tribal government at TC Eleven has both civil and religious responsibilities. This syncretized form of government relies on a leader to appoint persons to government posts for one year. In terms of domestic violence programs, the yearly turnover of law enforcement officials, as well as tribal leadership, can produce discontinuity in planning and implementation, but it can also lead to a larger group of community members receiving specialized training on domestic violence response.

Chapter 3

1995 STOP VAIW Program Activities: Coordinated Community Response

In accordance with the VAWA and STOP VAIW program requirements, STOP VAIW grant recipients in 1995 made significant efforts to develop coordinated community responses to violent acts against Indian women. In choosing coordination mechanisms, STOP VAIW programs attempt to match the approach chosen with (1) the specific goals for coordination, (2) the specific environmental context, (3) the resources available, (4) the developmental stage that has been achieved, and (5) the results of evaluative feedback. The goals that are shared by agencies at a particular time need to be considered when decisions are being made about what mechanisms to use in trying to coordinate services. The array of services, their distance from one another (both physical and social), the strength of particular governmental units, the strength of existing agencies, the economic and political-ideological climate, and the nature of the local populations in need are examples of the local environmental variables that need to be considered in choosing coordination mechanisms.

The 1995 STOP VAIW grantees successfully developed many systems and networks that were useful in coordinating the response to violent crimes against Indian women. Many communities utilized a task force or working group to develop tribal legislative codes and protocols. Tribal legislative code development is a vital aspect to any tribal governments' response to violence against Indian women. Tribal grantees have successfully brought together representatives from various groups within their communities to develop appropriate, sensitive tribal legislative codes and protocols for the response to violent crimes against Indian women.

Aside from tribal legislative code development, working groups foster interagency coordination by regularly bringing together representatives from the various agencies that respond.

Several tribal communities also adopted a coordinated approach to training. Training was one of the most frequent activities conducted with 1995 STOP VAIW funds. Many tribal grantees used STOP VAIW funds to train representatives from all areas of domestic violence, stalking and sexual assault response. Tribal grantees also developed information sharing and data coordination networks that help insure that every agency has the same case information. By using STOP VAIW funds to develop computer links and consistent data collection, tribal grantees are more likely to be able to track an offender. Offender tracking also allows tribal justice systems to identify orders or conditions of probation that have been violated, as well as repeat offenders.

Coordinated Community response models have become intervention strategies for reducing violence, protecting the victim's safety, and ensuring quick responses of the police, advocates, medical personnel, and courts in the mainstream community. Websdale suggests that such approaches would be vital for rural areas that have distinct features which make response more difficult.³³ Hamby points out that the research indicates such a model is put in place as a multiple intervention approach to encourage agency cooperation especially when such cooperation was poor or limited.³⁴ Furthermore, cross-agency training and advances in

³³ N. Websdale, *Rural Woman Battering And the Justice System: An Ethnography* (Thousand Oaks, CA: Sage Publications, 1998), 193, 210-212.

³⁴ Sherry L. Hamby, "Partner Violence: Prevention and Intervention" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 241-242.

computerized domestic violence and protection order records may be part of such a model. Hamby's research synthesis indicates that research on the usefulness of such models are scant, but that the research that has been done has indicated positive responses from victims and reduced recidivism rates of offenders.³⁵

Challenges to Coordination

Initially there was some difficulty in coordinating the various elements of the STOP VAIW program within many of the tribal communities that received 1995 funds. Law enforcement and victim service components had few formal channels of communication, and the informal channels that did exist were not clear and consistent enough to be entirely efficient. According to an advocate at one location, human service providers and law enforcement tended to focus only on the individual lives of Indian women, children, and men who are affected by violent crimes against Indian women. The focus was on individual victims and perpetrators involved in violent encounters, rather than on the role social institutions played in combating violence against Indian women.

Coordination Protocols

Because so many agencies may become involved in incidents of violence against Indian women, it is important that a coordinated strategy be adopted. Experience in the non-Indian community has shown that there is a need to develop interagency policies and procedures as well as to coordinate the collection of statistics relating to violence against women. The prime concern when developing such policies and procedures should be the safety of the victim. Before STOP VAIW, tribal grantees had few mechanisms in place to notify victim services personnel when

³⁵Ibid., 242-243.

law enforcement responded to a domestic violence call. Often it was up to the individual officer or dispatcher to notify the victim services workers of an incident. With the advent of STOP VAIW funding, formal protocols to guide workers were developed to solve issues of intra-tribal communication.

As of mid 1997, four of the 1995 STOP VAIW programs have established protocols where the dispatcher or officer officially notifies the victim services personnel each time a domestic violence call occurs. This formal protocol can be effective in bringing victim services personnel into each domestic violence case in a clear and consistent manner. (See Appendix C for flow chart of domestic violence responses).

Tribal Domestic Violence Task Forces

According to many people interviewed for this evaluation, task forces and other types of committees can effectively provide the initial steps in coordination, particularly if they are set up with the support of tribal leaders or council members. To help define and gather community feedback about violence against Indian women, one consortium and seven of the tribal communities have created task forces. These task forces often include members from tribal courts, law enforcement, prosecution, victim services, tribal council, social services, and community members. These working groups are generally successful in coordinating community efforts to combat violence against Indian women, and in creating an atmosphere where issues related to community efforts can be discussed. Again, coordination may be defined as the degree to which collaboration and exchange exists among an aggregation of service providers, allowing for the provision of services in a meaningful, appropriate sequence.

Professional ideologies that define what is proper professional behavior and the right approach to providing services can be barriers to coordination. However, in the context of a task force, the diverse ideologies and perspectives can be an asset. Task forces have proven to be an effective way to bring together various agencies with a variety of approaches to address a common problem: combating violence against Indian women. The evaluation team interviewed a broad range of professionals from each of the fourteen grantees, including: law enforcement officers, prosecutors, judges, victim and legal advocates, grant managers, program coordinators, mental health and substance abuse professionals and tribal leaders.³⁶ Members of each profession often have different views about how their respective programs should operate and under what treatment modality. Within the context of a task force, those differences in professional perspectives may allow for creative and innovative solutions to a problem.

Geopolitical considerations can also act as barriers to coordination if not properly addressed in a forum. Separate political jurisdictions, and proliferation of authorities and resource controllers, divide the people and organizations who need to work together to achieve coordinated services. Task forces and regional coalitions can help bring together representatives from various jurisdictions to facilitate networking and create agreements to work together.

Law Enforcement and Prosecutor Involvement with Domestic Violence Task Forces

The evaluation survey of tribal grantees indicated that eight of the eleven respondents had

³⁶See appendix A for the distribution of interviews.

problems with consistent police response to domestic violence calls.³⁷ Among the reasons given for these problems were: lack of police enthusiasm, lack of manpower, inadequate tribal legislative codes, lack of tribal specific customs and practices, and lack of agreements with off-reservation agencies. By getting tribal and non-Indian law enforcement involved in domestic violence task forces, tribal communities are beginning to resolve some of these difficulties.

All eight of the grantees that formed working groups directly as a result of the STOP VAIW grant included police involvement to some degree. Numerous grant employees mentioned the necessity of including police in an active role in these groups. Site visits indicated that, among tribes where the police were not involved in a coordinated working partnership with other agencies, police response was inconsistent. In those communities where police are involved with a working group, there is generally more cooperation and more unity. Law enforcement officers, as the first responders to a violent crime scene, can lend their insight into how a code or protocol will function from an enforcement point of view. An officer on a task force can also give the committee a sense of how well police are trained on domestic violence response and make recommendations to help facilitate cooperation between officers, prosecutors and victim service providers.

Prosecutors sit on five of the eight task forces present among the STOP VAIW grantees. One of the fundamental roles the prosecutors tend to play on these task forces is to assist with code and protocol development. Aside from assisting with development of tribal legislative codes and protocols, the prosecutor's presence on the task force can help to keep the committee

³⁷Surveys were distributed to all fourteen of the tribal grantees; eleven surveys were returned.

up to date on the prevalence of domestic violence prosecutions on the reservation, make recommendations about holding offenders more accountable, and generally keep the committee informed about the way the domestic violence code and protocols are functioning.

The Tribal Legislative Code Development Process: A Coordinated Community Effort

Some grantees utilized task forces comprised of criminal justice and victim service personnel to develop or revise tribal legislative codes and protocols. In other communities, the STOP VAIW grant manager formed working partnerships with criminal justice personnel to perform this task. Nearly all grant employees who were asked felt that a working group was an effective means to coordinate the criminal justice and victim service responses to violent crimes against women. Working groups were also credited with raising awareness about the dynamics of domestic violence within agencies that participated in these committees.

The grant manager at TC Eleven noted that the effort to develop tribal legislative codes has enhanced what was already excellent cooperation between tribal agencies by making the project a community endeavor. In contrast, at TC Five, where the code was developed by the grant manager, law students and the tribal judiciary, the tribal council objected to this process because the code did not receive adequate community input. The development of working groups with a wide range of participants appears to alleviate this concern.

The three consortia developed innovative approaches to tribal legislative code development. Consortium One sought to develop an inter-tribal code and court that would hear domestic violence cases from all five member tribes. Each tribe in this group eventually developed its own code. The grantee agency assisted in this process in an advisory role.

Consortium Two developed memoranda of agreement between the consortium agency and each tribe to use a traveling court developed with STOP VAIW funds.³⁸ The Consortium Two prosecutor also assists with tribal legislative code development for each member tribe.

Consortium Three provided legal training to member communities to aid in tribal legislative code development. The ultimate goal is to empower the individual communities to develop effective locally based responses to violent crimes against Indian women.

Both Consortia One and Three are in P.L. 280 states, so the member communities are subject to state law. The state laws are deemed by many in these communities to be unresponsive to their needs. State codes often stress mandatory sentencing, which can result in the removal of the offender from the community, or treatment of the offender that is not tribal specific. State codes sometimes interfere with community needs and desires. For example, many tribes in Consortium Three still function under a subsistence economy where the family may be dependent on the offender for simple survival. Removal of the offender can be a hardship for the victim. An additional issue for Consortium Three is the failure of state police to enforce state court orders due to the geographic isolation of the tribes. This lack of offender accountability can further endanger the victim rather than protect her. Community oriented tribal legislative codes allow each tribe to design tribally specific alternatives to these problems. These consortia are also expressing the inherent sovereignty of the tribes by encouraging and supporting tribal community level code development.

³⁸For a full discussion of the traveling court at Consortium Two, see the Prosecution chapter below.

Political Process of Tribal Legislative Code Development

Tribal legislative code development is subject to political processes. Turnover in tribal agencies was a significant barrier to the tribal legislative code development and implementation process in several communities. Some grantees, like TC Four, suffered turnover in both the task force and in tribal political offices. At different times, all members of the task force in this community left, including the grant manager, police chief, prosecutor and judge. Additionally, the tribal committee incorporated into the task force disbanded. All these changes in personnel caused inevitable delays in code passage.

Several tribal grantees have encountered delays due to tribal elections. When new tribal political officers are elected, they must be familiarized with the proposed tribal legislative codes. The time taken for new council members to review the proposed tribal legislative codes can delay passage. Four grantees noted some problems with the acceptance of the proposed tribal legislative codes by either tribal councils or committees, but were working with these bodies to alleviate concerns. Some grantees included council members on their task force to enhance council cooperation. Among grantees who have implemented tribal legislative codes, the time elapsed between tribal legislative code development and implementation ranged from eight months to approximately two years. Tribal legislative code development is a lengthy process that must go through several stages of review by tribal governments before being implemented. Delays caused by elections or turnover add to the time necessary for the code to reach the implementation stage.

Training

All fourteen grantees have conducted training for those who are active in the prosecution of domestic violence cases including: law enforcement officers, social service personnel, probation officers, process servers, prosecutors, judges, and tribal officials. Types of training offered include: multi-disciplinary training, specialized training, and in-service. Although much training is focused on law enforcement, prosecutors and court personnel are often included in multi-disciplinary sessions. Additionally, tribal prosecution staff often have been involved in presenting training on domestic violence to the community, especially after passage of a domestic violence code. Training sessions have improved both the efficiency and number of responses to domestic violence situations as well as increased awareness by communities, police, prosecution and judicial officials. Training has been noted by several grant managers as being influential in the enforcement of tribal domestic violence laws and the resolution of domestic violence situations.

Multi-Disciplinary Training

Seven of the fourteen grantees offer multi-disciplinary training. The goals of many multi-disciplinary training programs are to develop awareness of domestic violence situations and to provide interagency support and cohesion on domestic violence issues. Training is often provided for law enforcement officers, social service personnel, probation officers, process servers, prosecutors, judges, and tribal officials. Training sessions cover several areas including:

- appropriate responses to domestic violence situations
- specific techniques for handling domestic violence situations
- evidence gathering
- interviewing techniques

- discussion of tribal legislative codes
- discussion of full faith and credit
- tribal customs and practices
- team building
- supervision of probationers
- case management and tracking
- victim assistance
- various training methods from differing departments
- dynamics of domestic violence
- family violence protection act
- issuance of tribal protective orders

Consortium Two conducted separate, formal training for tribal law enforcement, tribal judges, court personnel, service providers, and community members. Training sessions were well attended by individuals committed to increasing awareness about violence against Indian women. Training is used as a networking tool for police, courts, service personnel, tribal officials and the community. Various regional training sessions were also included in employee training. Consortium Two credits to the training sessions for improved cooperation from judges and court personnel.

Consortia One and Two provided not only formal training, but informal training as well. Presentations were conducted that included the dissemination of information and forms to the tribal courts and councils. According to the grant directors at these consortia, the development of standardized forms for processing domestic violence in the courts and the training in their completion improved the prosecution of domestic violence cases.

Informally, at TC Nine, representatives from the police, courts, social services, victim services, mental health, the youth program, the elder's program, behavioral health, prosecutor's office, tribal administration and other agencies meet on a weekly basis to review domestic violence issues. Out of these meetings arose a conference, held in 1996, in which the focus was

domestic violence issues and the code. The first day of the conference focused on the technical issues of the code and general information about domestic violence. The second day focused on the traditional response to domestic violence. Informational manuals were distributed and some outside people were brought in to cover specific areas, such as the federal response to domestic violence. The main issues covered at the training were tribal customs and practices, team building, the dynamics of domestic violence, police response to domestic violence, interpretation of the code, supervision of probationers, case management and tracking, victim assistance, and training methods for various departments. According to the grant manger and others, the conference was extremely well received and productive. The tribal prosecutor and other members of the staff also conducted a training session for community members on the tribal legislative codes and other legal issues such as full faith and credit.

Consortium Three provides training to tribal courts and councils. Training is performed by project workers or is a cooperative effort between the STOP VAIW program and other institutions. A major focus of this consortium's training efforts is legal advice on tribal legislative code development for member communities. The Consortium Three legal expert usually conducts these sessions. Due to the vast geographical distance within the consortium service area, the program coordinator has conducted regional training tele-conferences and a two day regional on-site training, supported by tele-conferences before and after. In some instances, tribal court and council members attended the local training sessions. This has helped to raise awareness about domestic violence among members of the consortium.

Specialized Training

The prosecutor at TC Nine is training police on assessment of multiple counts and how

to write improved reports, as well as providing general information about the tribal legislative codes. At TC Ten, advocates are trained in formal court procedures such as protection orders, and all persons who work in tribal mental health are trained in crisis intervention and advocacy. One tribal judge at TC Ten also organizes a forum on full faith and credit for police and other judges in the surrounding area. In TC Seven, the grant director does specialized domestic violence training for court personnel, including prosecutors. TC Six has funded a training session for the probation officer to enhance his or her role in monitoring offender compliance with court orders.

Results of Training

According to several grant directors, the most prevalent result of prosecution, probation and advocate training has been an increase in awareness among these entities and a resultant enhancement of victim safety. Some statistics emerge that appear to draw a correlation between training of prosecution personnel and resulting case disposition. Prosecution rates rose in TC Two and Consortium Two after training activities. Cases reaching court in TC One quadrupled after training. Many grantees noticed a sharp rise in the issuance of protection orders after training. For example, at TC Three there was a 98% increase in protection orders issued after the training; TC Four saw a 50% rise since training on the tribal legislative codes. Several other grantees noted an increase in protection orders. Most grant managers who were interviewed attributed this increase to training given in specific components of the criminal justice system, such as prosecution or legal advocates, and to the general raising of awareness fostered by training activities.

Data Collection and Information Network Development

One of the goals of the impact evaluation was to develop a basic understanding of the cultural and legal contexts of reducing violence against Indian women among Indian tribes. Through the course of the TLPP evaluation, it became apparent that information on the numbers of Indian women victims are limited. The dearth of statistics can be linked to a prior lack of criminal tribal legislative codes, adequate tracking of statistics on domestic violence, even less tracking on sexual assault against Indian women, and almost non-existent tracking of stalking in most of the fourteen tribal communities evaluated.

Prior to STOP VAIW funding, victim service agencies frequently depended on manual systems and continuity of quality staffing to gather their statistics. With STOP VAIW funds, the grantees can develop, install, or expand data collection and communication systems to identify and track statistics on offenders, crimes, arrests, disposition of cases, and violations of protection orders.

- At the time of the interviews, most of the grantees were beginning to install computers and establish networks between departments.
- In addition to computer networks, three tribal grantees developed and implemented standardized data collection instruments for sexual assault and domestic violence as a result of STOP VAIW funding.
- Two other grantees were in the process of developing these standardized instruments in early 1998.

Because these systems were so new, the grantees very often were not able to provide the evaluators with precise numbers. Despite such limitations, the evaluation data suggests that violence remains a part of all communities and the use of STOP VAIW funds is just one step in

both the acknowledgment and reduction of violence against Indian women. The funds available will develop, enlarge, or strengthen programs addressing the needs and circumstances of Indian communities in dealing with violent crimes against women.

Data Collection and Perpetrator Tracking

Tribal grantees have enhanced offender accountability to the tribal criminal justice system through several tracking and information collection activities. Standardized forms, formation of databases, and activities of a probation/compliance officer are methods instituted by tribal grantees.

Standardized Forms

To help ensure consistent tracking of domestic violence perpetrators, several of the STOP VAIW grantees have developed standardized forms for tracking offenders through the criminal justice system. At least five of the fourteen grantees have developed some sort of standard form, so that all agencies responding to a domestic violence incident are collecting and receiving the same information.

Consortium Two has developed and implemented an efficient and effective offender monitoring system with the help of standardized reporting forms. At Consortium Two, which utilizes a traveling prosecutor for all the member communities, the prosecutor developed two forms to assist in agency coordination, perpetrator tracking and data collection. The first form is a standardized police reporting form which officers, from all the member communities, fill out after responding to a domestic violence call. This form lists the offender's history of violence,

the number of prior calls, whether or not a court order has been filed, and whether or not a criminal complaint was filed. Each week a member of the Consortium Two staff collects these forms from the various law enforcement agencies and returns them to the Consortium Two agency for processing. The second form that was developed and implemented is a weekly court tracking form. This form is used by the prosecutor to monitor all the cases in the various member courts. By consistently using these forms the prosecutor is able to collect information that assists in prosecuting offenders and making recommendations for sentencing based on prior history.

According to the STOP VAIW grant coordinator and probation/tracking officer at TC Three, they developed an effective perpetrator tracking and data collection form. At TC Three the tracking officer is responsible for conducting an interview with the offender after an arrest has been made. The mental health and criminal history of the offender is gathered during the interview, and a search is conducted of criminal justice records, and this information is recorded on a standardized form. This procedure has been codified in the probation department protocol, which was proposed but not finally adopted at the time of site visit interviews. The offender interview and standard form are used to supply the court with accurate information for prosecution and sentencing.

The TC Two STOP VAIW grant coordinator also developed and implemented a standardized form to help track offenders and collect data. The form used at TC Two is a bond form that gathers information about previous offenses and also serves as a record of arrest.

Another example of a fairly common approach to tracking offenders can be found at TC Ten, where forms have been developed to track offender compliance with the court ordered

batterer intervention group. Each week a form that records attendance at the batterer intervention group and the batterer's attitude is turned in to the court and the probation department at TC Ten. By tracking offenders through the court ordered program, the probation officer and the prosecutor are routinely made aware of violations of court mandated attendance.

Systems for Offender Tracking

Of the fourteen tribal grantees, nine are either in the process of developing and implementing a computerized case tracking system or have already installed such a system. The goal for most of these tribes is to input offender information from a standardized form into a computer database that would be accessible to all agencies responding to domestic violence calls. Ideally this would mean that law enforcement, prosecutors, probation officers and court officers could all easily learn the progress of any given case through the criminal justice system, thereby increasing the chances that an offender will be held accountable for their crime.

This type of system is partially in place at TC Eleven. The TC Eleven court has had a computer installed. The court director is responsible for keeping all records of tribal criminal and civil proceedings. At the time of the interviews, the court director's computer acted as a central repository for all information about an offender and the progress of the case through the system. The eventual goal is to network all the responding agencies so that information sharing can be efficiently accomplished.

A difficulty facing tribal grantees as well as non-tribal jurisdictions across the United States is the relative newness of domestic violence as a criminal offense. Because domestic violence is often prosecuted as assault or another crime, tracking these crimes can be difficult.

The process of distinguishing prior assault charges from prior domestic violence charges is challenging. TC Nine devised an innovative and efficient method of separating previous assault cases from cases that were actually crimes of domestic violence.

The TC Nine program hired a number of law students from a local university as clerks to review police reports and court arraignments that were processed before the TC Nine domestic violence code was in place. By using clerks to meticulously review old cases that were originally identified as assault or some other crime, the TC Nine program hoped to understand how prevalent domestic violence crimes have been on the reservation, who was committing these crimes, and identify repeat offenders. While this sort of specialized labor force is not available to all tribal communities, the TC Nine plan represents an innovative and efficient approach to helping track repeat domestic violence perpetrators.

Coordinated Community Response Recommendations

Tribal Legislative Code Development:

Developing and implementing comprehensive domestic violence, sexual assault and stalking tribal legislative codes are foundational to the development of a successful criminal justice response to violent crimes against women. STOP VAIW programs should make tribal legislative code development or revision a top priority. For those tribal communities that have no existing domestic violence, sexual assault or stalking code on which to build, tribal legislative codes from other tribes should be used as guides, however they should reflect the specific tribal justice system.

Policy Task Force:

The formation and continuous utilization of a task force is clearly an invaluable means to coordinating a community response to violent crimes against women. STOP VAIW grantees should make every effort to develop a task force or at least a regular working group to coordinate tribal policy efforts. A task force should include members of all components of the criminal justice system, victim service providers, social service agencies that handle child welfare issues, members of the community at large, and other participants as appropriate.

Training:

Each STOP VAIW program must do a needs assessment and identify the type and extent of training needed. In general, each of the criminal justice and victim service agencies that respond to crimes against Indian women needs to provide training on domestic violence, sexual assault and stalking issues. It is useful if all agencies are receiving consistent training so that everyone brings a common knowledge to each case.

Information Sharing:

Each STOP VAIW program must assess the extent to which information about offenders is shared, and improve or develop systems that are tailored to their needs. Each agency, law enforcement, prosecution, courts, and probation services, needs to have access to the same information so that victims are protected and offenders are held accountable. Standardized forms are one example of how such a system can operate comprehensively.

Chapter 4 Victim Services

Against difficult economic, cultural, and political odds, Indian women and advocates have initiated a broad-based response to violence against Indian women in tribal communities. One of the most significant developments in response to violence against Indian women in tribal communities has been the creation of grassroots crisis intervention services by and for Indian women. Typically located within tribal communities, these programs have a strong emphasis on community organization and public education. While many of these programs struggle with financial support, they endure in part because they are grounded in a community-based approach to problem solving. By providing direct crisis intervention services, educating tribal communities, and publishing culturally relevant resources, the fourteen American Indian communities and consortia which received fiscal year 1995 funding have demonstrated a strong commitment to addressing violence against Indian women.

Mainstream victim services include shelters, safe houses, women's support groups, mental health counseling, personal advocacy, and legal advocacy. Weisz found that advocates were more helpful than police and courts in providing women with information in a way that they could most benefit by it.³⁹ Weisz cites research in which advocacy and protective orders correlate with guilty verdicts against the offender.⁴⁰ The advocates in her study were instrumental in advising women to report abuse to the police, file for protective orders, take cases to court and

³⁹ Arlene N. Weisz, "Legal Advocacy for Domestic Violence Survivors: The Power of an informative relationship," *Families in Society: The Journal of Contemporary Human Services* 80, no. 2 (1999): 138-147.

⁴⁰*Ibid.*, 139.

in offering encouragement.⁴¹ In some mainstream communities, the main form of victim service is the shelter which offer services such as telephone hotlines, help with permanent housing search, legal assistance, classes, counseling, women's groups, referrals, and planning safety strategies for emergencies.⁴²

Goals of STOP VAIW funds for Victim Services

All of the grantees planned specific goals for their STOP VAIW grant, although some of the goals have changed in focus and form. Generally tribal grantees adhered to the purpose areas and permissible use of funds to develop, enlarge, or strengthen victim service programs to enhance the accessibility of services, and to provide specialized domestic violence court advocates.

Although the VAWA states that 25% of STOP VAIW funds must go to a non-profit, non-governmental agency that provides victim services, tribal governments are given an exception to this rule. The victim service funds may be allocated to a tribal government victim services agency when such services do not exist within the jurisdiction of the tribal governments. Of the 14 grantees funded:

- 57% (8) are non-profit organizations. Funded nonprofit, non-governmental agencies were somewhat successful in removing the politics from providing services. Good working relationships between non-profit agencies and tribal justice systems, and the support of tribal leaders and tribal governments, facilitated the process of a successful coordinated and integrated response.

⁴¹Ibid., 142-143.

⁴²Sherry L. Hamby, "Partner Violence: Prevention and Intervention" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 234-235.

- 43% (6) were social services and tribal court agencies. Funded tribal social services agencies are predominately located within small communities, with an average service population of 2,000, are located within one county, with one main community center, and are fairly isolated. Again, supportive working relationships with tribal governments and leaders were factors in the success of victim services providers.

Victim Service Funds

Interviews at all fourteen sites indicated program coordinators, directors, and grant managers were generally not sure how to use the 25 % of STOP VAIW funds available for victim services. Much of the confusion was related to the newness of the program and the fact that "victim services" were not clearly defined in the grant solicitation. Most of the tribal communities funded a variety of projects, and generally stayed within the funding parameters.

According to STOP VAIW grant stipulations, regardless of the type of victim services program funded, 25% of the funds must be spent on services for Indian women who are victims of violence.

- Over 80% of the grantees allocated 25% of their funds for victims services
- Two tribal communities exceeded the 25% allocation for victim services. TC Eleven spent over 41% and TC One spent over 61% of their total allocation of STOP VAIW monies to fund positions for the shelter and for the domestic violence response team.
- Overall, 30% of victim service funds were used to purchase equipment for victim service facilities such as fax machines, phones, copiers and computers, to train tribal community members and victim service personnel about violence against women, and to cover victim service related expenses of law enforcement and prosecution.

The victim services areas which received the most emphasis among the FY 1995 tribal grantees were: creating specialized domestic violence court advocates, developing shelters and safe homes, improving accessibility of victim service programs, and implementing education and training on violence against women for tribal communities and tribal personnel.

Improved Victim Service in Those Tribes Studied as a Result of STOP VAIW Funds

Despite limitations on how funding should be used and the pervasiveness of violence against Indian women, the fourteen tribal communities have been able to successfully create programs that address violent crimes against Indian women. They have increased the referrals of victims to services and educated their respective communities about the cycle of violence with a coordinated approach, with support from tribal leaders and governments.

During the course of this evaluation, it was noted by Indian women, advocates, and social service providers that some tribal governments did not take the problem of domestic violence, rape, and other violent acts against Indian women seriously enough. With education from victim service providers, many tribal governments and individual leaders have acknowledged that reducing violence against Indian women should be a priority for their tribal governments. Such support invalidates the idea that the values of family stability, community self-determination, and protection of culture are incompatible with addressing the needs of battered Indian women within tribal communities. Tribal communities have had to prioritize the social, economic, and health problems which have historically plagued their communities over what had been primarily Indian women-centered concerns of domestic violence. Many tribal communities have come to realize that the health and welfare of Indian women is a vital part of the overall health and welfare of Indian communities.

Studies on the prevalence rates and risk factors from the general population inform practitioners of the seriousness of violence against women as a community health concern. A 1998 Commonwealth Fund study found that one-third of American women revealed experiences

of physical or sexual violence during their life time.⁴³ This number includes at least 6% of women who are pregnant.⁴⁴ Such abuse is often ongoing. In one research study, one fifth of victims who were still with or had separated from their partners recounted that they had experienced three or more abusive incidences within the previous six months.⁴⁵ Ptacek draws on Stark and Flitcraft who said domestic violence is associated as "the single most important context yet identified for female suicide attempts."⁴⁶ Ptacek writes, "If recovery from psychic trauma is a social process, this process will be more difficult for women in communities that are already suffering from economic and political isolation."⁴⁷ Kaufman Kantor & Williams in their synthesis of research found that "the forms and patterns of physical violence may not be the same in all families."⁴⁸ However, some researchers have been intent on identifying risk factors for perpetrating domestic violence. Risk factors and characteristics for abusive partners include

⁴³The Commonwealth Fund, *Health Concerns Across a Woman's Lifespan: The Commonwealth Fund 1998 Survey of Women's Health* (May 1999) quoted in "Health Care Response to Domestic Violence Fact Sheet," in <http://www.fvpf.org/health/facts.html> [cited 17 February 2000].

⁴⁴Centers for Disease Control and Prevention, *The Atlanta Journal and Constitution* (1994), quoted in "Health Care Response to Domestic Violence Fact Sheet," in <http://www.fvpf.org/health/facts.html> [cited 17 February 2000].

⁴⁵ Zawitz, M. et al. *Highlights from 20 years of Surveying Crime Victims: The National Crime Victimization Survey, 1973-1992*. (Washington D.C.: U.S. Department of Justice, Bureau of Justice Statistics, October 1993), quoted in "Health Care Response to Domestic Violence Fact Sheet," in <http://www.fvpf.org/health/facts.html> [cited 17 February 2000].

⁴⁶ Evan Stark and Anne H. Flitcraft, "Violence among Intimates: An Epidemiological Review," in *Handbook of Family Violence*, eds. Vincent B. Van Hasselt, Randall L. Morrison, Alan S. Bellack, and Michel Hersen (New York: Plenum Press, 1988), 304, quoted in J. Ptacek, *Battered Women in the Courtroom: The Power of Judicial Responses* (Boston: Northeastern University Press, 1999), 138.

⁴⁷ J. Ptacek, *Battered Women in the Courtroom: The Power of Judicial Responses* (Boston: Northeastern University Press, 1999), 138.

⁴⁸ Glenda Kaufman Kantor and Jana L. Jasinski, "Dynamics and Risk Factors in Partner Violence" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 4.

Sugarman's list: "1. Sexual aggression toward the wife/partner; 2. Violence toward the children; 3. Witnessing parental violence as a child or teen, 4. [working class] Occupational status, 5. Excessive alcohol usage; 6. [low] Income; 7. [low] Assertiveness. ⁴⁹ Factors identified by other researchers include, "cross-generational violence (childhood abuse, witnessing parental violence), occupational status, excessive alcohol use, and socioeconomic status" ⁵⁰ Ptacek cautions against the "class myth" (domestic violence occurs more frequently in the lower class) and the "universal risk" (all women despite class or race are equally at risk), explaining these to be extreme stances. He states instead that "poverty and racism increase women's vulnerability to violence." ⁵¹ The occurrence and experience of violence may be better understood when contextualized among factors including socioeconomic status, rural or urban location, community support systems, and the precursory influences of history.

Historically, violence inflicted on Indian women had been linked to colonization, the loss of traditional values, and misuse of alcohol.⁵² Because of the powerful effects of a violent relationship, many battered Indian women were required to balance the often conflicting needs

⁴⁹D. B. Sugarman, E. Aldarondo., and S. Boney-McCoy, "Risk marker analysis of husband-to-wife violence: A continuum of aggression, *Journal of Applied Social Psychology* 26 no. 4: 313-337 quoted in Glenda Kaufman Kantor and Jana L. Jasinski, "Dynamics and Risk Factors in Partner Violence" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 15.

⁵⁰ For list of five research studies see Glenda Kaufman Kantor and Jana L. Jasinski, "Dynamics and Risk Factors in Partner Violence" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 15.

⁵¹J. Ptacek, *Battered Women in the Courtroom: The Power of Judicial Responses* (Boston: Northeastern University Press, 1999), 39.

⁵²P.G. Allen, "Violence and the American Indian Women," in *Working Together to Prevent Sexual and Domestic Violence* (Seattle, WA: Center for the Prevention of Sexual and Domestic Violence, 1985), p. 3

and expectations of their batterers, their families, and their communities. The fear of repercussion and conflicting expectations, rules, and loyalties often compromised the strategies which were available to help Indian women who chose to leave violent situations, and were compounded by a lack of support from tribal governments.

To illustrate this point, according to at least nine tribal communities interviewed for this evaluation, limited support had been available to Indian women who were the victims of violence in their homes. Eventually more than half returned to their abusers. After the initiation of victim service programs to provide support for women in Tribal Community Nine, women went back to their abusers only 30% of the time. In another community, TC One, of 95 victims seen during the 1995-1996 fiscal year, 46 women endured one to five years of abuse before leaving, and over half (45) returned to their situations because of lack of financial, community, and family support.

As those who work with abused women know, abuse is not always physical. According to victim advocates from TC Two, Indian women experience many forms of abuse which can make it difficult for women to report and for service providers to detect. Two tribal communities that were evaluated have kept precise numbers on the Indian women coming to their program. Overall in these two communities, of 136 victims, 109 suffered physical abuse, 76 suffered psychological abuse and 9 suffered sexual abuse.

Such evidence suggests that a comprehensive program that provides referrals for financial and medical assistance, crisis intervention, and long term support is essential for Indian women who are the victims of violence.

Shelters and Safe Houses for Indian Women

Women's shelters provide an option for a woman who is in an abusive situation. While a shelter is not the ideal scenario, it can provide an abused woman with a place to safely work through her options and the issues she must confront. In an ideal world programs like STOP VAIW would keep men from continually abusing the women in their lives, rather than removing the woman from her home and sometimes her community. While most STOP VAIW programs try to help the victim remain in her home environment, sometimes a shelter or safe house is the only way that an Indian woman can be safe.

The role of shelters for Indian women who are victims of violent crimes vary among the grantees. For some, a shelter is a viable and acceptable way to provide a victim refuge from an abusive situation, giving her time to assess her options. For others, a lack of the resources necessary to acquire and maintain a facility make a shelter unfeasible. In addition, a shelter is not a culturally appropriate option for some tribes, as the family of the victim is traditionally responsible for caring for an abused person. In some cases, available shelters are off-reservation and not designed to address the unique circumstances of Indian women, raising a new set of problems for the victim. These problems include: distance from home/family, inability to bring children, expense of travel to and from the shelter, expense of staying in the shelter, and relevancy of services. For tribal grantees who can afford and are motivated to operate their own on-reservation shelter, this component offers a useful and effective short term safe space for a victim to assess her situation.

Before shelters were established in these tribes, many Indian women were transported out of the community to shelters in towns and communities located at distances of 30 to 300 miles.

One tribal community transported women 300 miles away to a shelter that offered good security and comprehensive services like crisis intervention and transitional housing. The nearest shelter was located 70 miles away, but victims had to contribute to the expenses of staying there, placing a strain on the budget of victim services.

The evaluation revealed the following:

- Of the fourteen grantees evaluated, six have shelters.
- Of the six, three had shelters before the STOP VAIW grant and three developed shelters with the assistance of STOP VAIW .
- Among those six grantees who have a shelter, in 1995, a total of 213 women and 335 children received shelter.
- The following year, in 1996, a total of 293 women and 388 children received shelter.
- By 1997, 307 women and 408 children received shelter services.
- The number of beds available for women averages between 8 and 20, with the average stay over 30 days.

The table below indicates the growing need for shelters as indicated by the increases in the numbers of Indian women and children utilizing these services:

Shelter Utilization by Indian Women and Their Children

Year	1995	1996	1997	% Increase
Women	213	293	307	44%
Children	335	338	408	22%

In addition, with STOP VAIW funding, tribes have been able to fund several Advocate and victim services employees, enabling the programs to have at least one person on call 24 hours a day. Tribal grantees were also able to improve and expand facilities and programs, which directly increased the number of Indian women they can shelter.

Grantees and their shelters

TC Seven developed a shelter in 1995. Before the program was initiated, 11 women were referred to an outside shelter. The first year of operation, 15 women received shelter, the following year there was a 47% increase, to 22 women. At the time of the interview, they had 20 women staying at the shelter. This shelter is the main service provider for the whole county and for both Indian and non-Indian victims of violent crimes against women.

TC Eight had 31 requests for shelter and transported two women out of the service area before their shelter opened. During the first year of operation, 39 victims received shelter. In 1997, at the time of the interviews, 24 Indian women were staying at the program.

Before their shelter opened in 1997, TC Three transported 78 women to an outside shelter during 1996-1997. Eight Indian women and 18 children were at the shelter at the time of the interview, with the capacity to house up to 30 persons at one time.

TC Two gave shelter to 158 Indian women and 280 children in 1994, 198 Indian women and 335 children in 1995, 188 Indian women and 302 children in 1996, and 214 Indian women and 323 children in 1997. For each year, over 80% were new Indian women coming into the system.

TC One gave shelter to 44 Indian women and 86 children in 1996, and to 41 Indian women and children in 1997 at the time of the interviews.

The shelters provide essential support services as well as assistance, upon request, with housing, and referral to counseling. The limitations to what victim services can do are apparent when dealing with Indian women, many of whom come from small communities and have few real options. For this reason victim service workers see women return time and time again to

violent situations. The practical assistance shelter workers can offer may be limited, but their understanding of the situation can be particularly useful for a victim.

Safe Houses

For those tribes that do not have shelters, safe houses are an alternative. Safe houses are generally on-reservation homes of tribal members who volunteer to take in a victim for a very brief period of time. Safe houses have several benefits, the most prominent of which is the fact that the victim may remain within the tribal community as well as the low cost to the tribes. Safe houses save tribal communities faced with very limited financial resources from the costs of building and maintaining a shelter. In some tribes, the number of Indian women who might need to use such a facility is too small to justify a shelter and safe houses proved a viable alternative. Safe houses, though, are generally only available for a few days. Often they are utilized only on the night of the attack and provides immediate protection to the victim. This limited role is an effective and innovative way that a domestic violence victim may escape a volatile and dangerous situation for a short time. Of the fourteen communities and consortia evaluated, one tribal community and two consortia have safe houses.

Four safe houses exist in TC Six. They have been used 12 times since implementation in 1995. According to the STOP VAIW grant manager at TC Six, the safe houses have been very effective in providing a safe environment for Indian and non-Indian victims of violence.

Consortium One has 16 safe houses, which are located both on and off the reservations. Each member of the consortium developed their safe houses separately. They are used mainly for emergency housing for a victim from the adjacent community. Discretionary funds are used

for necessities and supplies of the safe houses, to compensate the safe house providers, and for emergency transport to one of these safe homes or to motel rooms. The consortium agency also coordinates services with off-reservation programs, provides emergency 24 hour contact services for victims, and develops safety plans.

Consortium Three has 38 safe houses. The presence of these safe houses has fostered community awareness to a point where the communities provide a protective environment around the victim. Some of these communities use safe houses to provide temporary shelter until the victim can be provided transportation services. Safe houses are seen as a vital component in the provision of safety for the victim. Isolation and transportation issues cause financial burdens and safety concerns in Consortium Three. According to the grant manager, discretionary funds are used to subsidize necessities for the victim and for the houses.

In Consortium Three, one member community coordinated to buy logs from a tribal business and built a safe house; another member community took a derelict HUD house and renovated it; for another member community, a safe house is four rooms above the tribal council office. Innovations in how to deal with lack of financial resources can come from the initiative of STOP VAIW, which has been the starting point for the expansion of programs tailored to community needs, using community support.

Advocates

Because there is not a universally accepted definition of advocacy, the role of advocate was primarily defined by the grantees. It is common to find staff, called "advocates," providing diverse services including a range of legal education and assistance for victims, crisis

intervention, community education, transportation, and facilitation of Indian women's support groups. Of the fourteen tribal communities, two consortia and ten tribes have developed advocate positions. One consortium and one tribal community have no advocates, but are in the planning stages of developing this staff position.

Legal Advocates

Eleven of the fourteen grantees have legal advocates. Legal advocates help victims with the processes and procedures of the court system. Advocates play an active role in helping women who are victims of violent crimes obtain orders of protection and with court appearances. Legal advocacy can be provided in tribal and state courts, and with tribal or BIA law enforcement agencies. Legal Advocates are used at the discretion of the courts, therefore a good working relationship is required between advocates and the criminal justice system to be effective.

Six tribal communities and Consortium One have legal advocates who accompany the victim to court (tribal, county and sometimes state) to apply for an order of protection. Many of the tribal communities, such as TC Three and TC Eight, have advocates who explain the procedures to the victim and help them fill out the appropriate paperwork. Sometimes the victim is afraid to go to court to request the protection order. In such cases, advocates, like those at Consortium One, will go to the court without the victim to ask for the order of protection.

Legal advocates also accompany victims to actual court proceedings. The amount of assistance given at this stage varies from grantee to grantee. Some advocates, such as those in TC Ten, are in court with the victim to provide support, and to help the victim understand the court process. Others, such as TC Four, will advocate batterer intervention programs to the

court. Advocates for TC Three not only accompany victims to court proceedings, but openly campaign for the safety of their clients by informally advising the court of their recommendations.

Several advocates have informal advisory roles in the courts. Advocates for TC Two are often asked by the court for an opinion about a particular situation. Often the court will then follow their recommendations. Advocates are also consulted by the court concerning sentencing of offenders. TC Three's court includes the legal advocate in their sentencing decisions, asking the advocate to give specific sentencing recommendations.

Some advocates monitor the court officers in an effort to make them accountable to the victim's best interest. The advocates for TC Three will visit the judge's chambers for a case discussion if they believe the judge's decision is harmful to the victim. By persistently pursuing questionable decisions, the advocates are attempting to get the judge to issue stronger punishments to the offenders. The advocates also try to insure that the existing guidelines are followed by the court.

Four tribal communities have advocates who may serve as witnesses in domestic violence cases. For example, advocates from tribal communities Seven and Eleven are often used as expert witnesses on behalf of victims in these sorts of cases. Generally, these advocates consider their mission to be the prevention of further victimization of their clients by making the system accountable to victims.

Legal advocates often act as collectors of information for the court. Advocates from TC Eleven provide background information on the offender and the history of abuse in particular cases. The courts of TC Two and TC Three often rely on the advocates to provide a history of

the defendant, as well as other valuable information and reports, which help the court to assess the character of the individual offender.

Legal advocates serve a dual purpose in six tribal communities. In conjunction with working with a victim in the prosecution of complaints, advocates also monitor court officers to make them accountable to act in the victim's best interest. TC Six and TC Two have advocates who informally monitor cases and keep consistent contact with the probation or tracking officer. Advocates at TC Seven inform the court and prosecutor of violations of protection orders. The advocates also visit the offender in jail during the mandatory "cooling off" period, advise them of the men's group, and track the compliance of offenders.

According to many grantees, legal advocacy is an important aspect of victim services. With legal advice, victims can learn how to leave their abusive relationships with some protection from the criminal justice system. In an effort to help ensure that uninformed tribal members know their rights, Consortium Two developed a law clinic which provides a comprehensive array of legal services for victims. This is a unique venture, since most tribal communities and consortia do not offer these services, but instead refer women to the local legal services office.

Victim Advocates

Several tribal grantees have expanded the role of the advocate to include work in multiple social service systems. Advocates help battered women gain access to a wide range of community resources including housing, education, financial assistance, food stamps, clothing, employment, and childcare. According to many people who were interviewed, battered Indian

women who work with advocates were more effective in meeting their own goals than Indian women who did not work with advocates. Advocates were effective in providing supportive counseling, as the majority of the advocates are former victims themselves. According to the TC Ten victim advocate, by sharing similar experiences, and letting victims know that other Indian women have left violent situations, advocates are in a unique position to provide hope.

In many cases, advocates are the initial emergency contact for victims, providing the victim with a safe environment in which to decide on future actions. Advocates aid victims in decision-making by providing information on victim services and offering referrals. Advocates at Consortia One and Two, as well as TC One, make the initial contact with victims and offer counseling, support, and referrals for social services such as support groups. They serve as an intermediate step in confronting the problem. TC Eight's advocate is a Domestic Violence Counselor who is called to the scene by police. Her job at the scene is to protect the victim and provide emergency transportation to a shelter if necessary. The advocate at TC Eight also assesses the condition of the victim.

Volunteer advocates provide services to the several tribal communities that make up Consortium One. They serve as liaisons between the grantee and the tribes, are involved in community education, and take prevention and awareness workshops to schools and communities at large. For the consortia, having several advocates from different tribes relieves the stress, danger and potential awkwardness which could result from relationships with the offender or victim. For example, an advocate from one tribe can work in a community other than her own.

Child Protective Services Intervention

Adding to the victim's fears, there have been incidents among all grantees where child protective services intervene in domestic violence complaints. This may inhibit the victim from asserting her rights because she may fear losing custody of her children due to allegations of child endangerment if a complaint is filed. The advocates try to work around the victim's fears as well as they can. At Consortium Three, the threat of removing children from the home environment has been used to compel the abuser into a batterer intervention program.

Protection Orders

An urgent priority in a domestic violence incident is the petitioning process for a civil protection order to help ensure the future physical and psychological safety of the victim.

Protection orders may also be issued as a condition of probation through the criminal court process.

According to the VAWA, the victim is not responsible for the court expenses of filing for a criminal complaint. Ten grantees responded to this survey regarding the time period before receipt of the STOP VAIW grant; nine indicated that victims did not bear any out of pocket expenses for court costs when filing criminal complaints and one indicated that the victim did incur costs. Eleven grantees responded to this survey regarding the time period after receipt of the STOP VAIW grant; ten indicated that victims did not bear any out of pocket expenses for court costs when filing criminal complaints, while one indicated that the victim did incur costs.

For civil complaints and protection orders, the numbers are different. Nine grantees provided information regarding whether victims bore any expenses for court costs when filing

civil complaints of domestic violence prior to receipt of the STOP VAIW grant; six indicated that victims do not bear any expenses and three indicated that victims did bear out-of-pocket expenses. Ten grantees provided information regarding whether victims bore any expenses for court costs when filing civil complaints of domestic violence after receipt of the STOP VAIW grant; eight indicated that victims do not bear any expenses and two indicated that victims do bear expenses. Before the STOP VAIW grant, six grant recipients did not offer legal help to the victim in civil complaints, while five did. After the STOP VAIW grant, nine of the eleven survey respondents provided assistance to victims in filing civil complaints.

TC Six is working on improving their personal protection orders and no-contact orders. They plan to add stalking behaviors to the personal protection orders. Currently, protection orders include provisions addressing child custody issues and prohibiting harassment of the victim by the offender. No-contact orders include prohibitions against stalking and harassing phone calls. Confusion occurred over the extent to which orders were enforced, to the point where it disrupted the life of the victim. For example, the victim was sometimes locked out of her own house or was not able to go to work because of literal interpretation of no-contact orders. Tribal code writers at TC Six changed the language of the protection orders to "no abusive contact" instead of simply "no contact" in order to prevent such situations. TC Six judges have begun signing no-contact orders with these new provisions. For "no contact" orders to be repealed at TC Six, the offender must go through a complete mental and physical health evaluation. At TC Six, the role of the police officer includes informing the victim at the scene of a domestic violence crime that the victim possesses the legal right to file a protection order with the tribal court.

As discussed above, child custody plays a part in the prosecution of domestic violence cases and the need for protection orders. STOP VAIW grant workers and Child Protective Services (CPS) workers may end up on competing sides. The CPS investigator is allowed access to all police reports on request. When a woman files a domestic violence complaint, the CPS worker sometimes lobbies the court to have the child removed from the mother, citing the danger of an abusive home. In this situation, the mother must sometimes choose between filing a domestic violence complaint or facing the chance of losing her children. Tribal grant workers are trying to develop policies that protect both the domestic violence victim and the child in such situations.

Consortium Two has used STOP VAIW funds to help establish procedures that honor the protection orders issued by other jurisdictions. Tribal courts and law enforcement have often refused to recognize protection orders of non-members in this highly checkerboarded area. Protocols for tribal police have been developed that include: checking for outstanding or unserved protection orders; making an arrest and/or serving an order; and informing the victim of her right to file for an order. When a defendant is released pending trial, the following stipulations can be assigned: a stay-away order, a temporary protection order including temporary custody of the children to the victim, confiscation of weapons from the house, or house arrest.

In the state court system that serves Consortium Two, an association with the state Domestic Violence Commissioner has helped with securing protection orders from the state as an alternative to the tribal court. These state orders are honored by the consortium members. Alternately, if a tribal jurisdiction provides an order, the woman then takes a copy to the state for state recognition. According to grant employees, collaboration between the consortium and the

state is excellent.

Similar problems of jurisdiction, as well as other issues, hamper the issuance and enforcement of protection orders among tribes in Consortium Three. For example, members of Consortium Three contend that state courts do not honor tribal orders of protection. According to some persons among the tribes in the consortium, if an offender is related to a council member, the victim may not be easily granted a protection order. Issuance of protection orders is further complicated by the victim sometimes being dependent upon the offender for subsistence. Some members of Consortium Three possess no police force. Isolated, extensive land areas make it difficult for those communities with patrol officers to enforce orders, so the state is often the provider and enforcer of orders.

At Consortium One, the enforcement of protection orders is inconsistently imposed by county and state judges. No full faith and credit agreements exist between tribes and non-tribal law enforcement. Tribes in the consortium honor county protection orders, but have trouble getting their orders honored. The victim ends up going to the county or state to ensure an enforceable protection order. The state and county courts contend that the tribal court systems and tribal legislative codes are too diverse to enforce. The state and county want more cohesiveness across the tribal systems before they will honor orders. Consortium One is responding to this by training the tribal communities on full faith and credit, and by streamlining their tribal legislative codes.

Procedures and Enforcement of Protection Orders

STOP VAIW grantees are attempting to enhance victim safety and offender compliance

with orders through the prompt issuance of protection orders and sanctions for violations. At TC Ten, the protocol is to always administer an order, but victims may petition to have the order removed. However, the judge will make the victim show good cause in order to withdraw the order, denying 95% of the requests. The judge believes that the order should not be lifted until the offender completes a batterer's intervention group. At TC One, the victim initiates the process of obtaining an order for protection and disseminates its contents to the surrounding jurisdictions. To shorten this trail of red tape, the former chief prosecutor at TC One established a system in which, after the initial filing with the tribal court, photocopies were sent to the county sheriff, the chief of police, and the victim.

Some tribes are experiencing increased enforcement of protection orders. TC Two, for example, has experienced a positive change in the enforcement of the protection orders since the inception of the STOP VAIW program. Persons who violate orders of protection are jailed at the court's discretion. According to on-site interviews, an increase in incarcerations for this violation has occurred since the inception of the STOP VAIW grant. TC Five varies their sentencing structure by reprimanding and attempting to control repeat offenders with a court order prohibiting contact with the victim as a condition of bond.

The problems tribes face in issuing and enforcing protection orders differ across the grant recipients' experiences and location. However, STOP VAIW grants have played a vital role in facilitating the use and effectiveness of protection orders. Jurisdictional problems across state and county boundaries remain obstacles, but many, if not all, of the tribes are addressing these problems.

Women's Support Groups

Programs attempting to establish support groups within tribal communities face at least two constraints. First, traditionally native women received support from their family and clan. The beating or rape of a woman was a serious matter that was handled immediately. Imposition of western culture upon native communities has resulted in the erosion of many traditional support systems available to women. The creation of formal support groups are an effort to provide the necessary support to Indian women that some find helpful and others do not. The creation of programs specifically designed to address the needs of Indian women are essential. However, occasionally a lack of confidentiality exists which impedes the creation of support groups in some tribal communities. Secondly, according to one advocate, abused Indian women do not want to reveal the abuse they experienced for various reasons, thus reducing their chances of attending support groups. Despite such constraints, tribal communities that have support groups actively advertise their groups to women, provide a safe and neutral setting for meetings, and encourage the involvement of her family. Of the fourteen grantees evaluated, seven tribal communities and two consortia have established women's support groups as a component of their STOP VAIW programs.

Support groups typically provide information and discuss issues of self respect, violent crimes against Indian women, and sobriety. Two consortia have multiple support groups that operate within the communities and follow a similar format. In both consortia and tribal communities, support groups have been developed with STOP VAIW funds as a component of their programs, or in conjunction with off reservation women's groups. According to those interviewed, the establishment of support groups led to an increase in referrals to groups, an

increase in the empowerment of women, and an increase in the openness to discuss intimate issues.

Crisis Intervention

Among the four tribal communities and one consortium that administer this component as part of their STOP VAIW program, approximately 380 women have received crisis intervention. According to those interviewed, crisis intervention is very successful in helping victims cope with the trauma of abuse. By talking to another woman, and understanding that there is someone to help them reduce their stress, a victim can increase her chances of making her own decisions.

By creating tribally specific programs that keep traditional views intact, STOP VAIW programs are beginning to address the difficulties of providing crisis intervention for abused women in Indian Country. Before STOP VAIW funding, crisis intervention faced three primary constraints. One barrier was the common belief that domestic violence is a family issue. This is being successfully addressed by training and education of the tribal communities and consortia. Second, at least half of the tribal communities and consortia evaluated believe keeping families intact is very important, and divorce is not always socially acceptable. In these tribes, leaving the abuser is not always a realistic option, therefore crisis intervention for the victim and holding offenders accountable for their abusive behavior are viewed as essential, and both are components in most of these tribal programs. Third, victims requesting counseling were often referred to off-reservation counseling centers in surrounding towns. Furthermore, those programs that stress leaving the abusive situation and becoming self-sufficient, thus requiring in

many instances urbanization, are considered inappropriate. For many Indian families, this is not a preferred or realistic option. Therefore, on-reservation crisis intervention programs were initiated.

Telephone Hotlines

Of the fourteen grantees evaluated, one consortium and four tribal communities track the number of crisis calls received. Three programs have central, non-profit agencies that house their respective STOP VAIW programs and toll-free hotlines. During the 1995-96 year, there were approximately 554 crisis calls logged among the five grantees. The following year, 1996-97, there were 1,034 calls logged, an almost 100% increase from the previous year. This increase can be attributed to community education and awareness about violence against Indian women by advocates, staff, community members, and the visibility of the programs through brochures and pamphlets about STOP VAIW programs.

Information and Referral

Battered women need a variety of services such as job training and placement, low-cost housing, daycare, crisis intervention, and referrals made to the appropriate service providers. Unfortunately, such services are non-existent on most reservations or are remote from tribal communities. Despite lack of resources, one community found an innovative way to deal with the situation. Consortium Two created an Emergency/Start-Up Fund from their discretionary funds to help a victim leave an abusive relationship at her discretion. The fund helps victims

purchase bus tickets, pay a rent deposit or the first month's rent, and utility deposits, including telephone service.

Victim Service Recommendations

Shelters/Safe Houses:

A compatible, safe place for Indian women to sort out their options after a domestic crime is extremely important. On-reservation shelters are advantageous because they are staffed all the time (or at least have someone on call), provide a secure space within the community, are generally sensitive, and enable a victim to be in an environment where she may be able to discuss her options with someone who understands her situation. However, a shelter may not be cost effective or even possible in some communities. Safe houses provide many of the same benefits of a shelter, and are very cost effective. However, both safe houses and shelters are only short term options. They should not be viewed as the primary solution to the problem of violent crimes being committed against Indian women.

Advocates:

Advocates are vital to a successful victim service program. All STOP VAIW programs should seriously explore the feasibility of creating some type of advocate position(s) so that women who find themselves in the legal system have a well trained guide to assist them. Ideally, both legal and victim advocates would be available so that a woman knows her rights, the status of her case and also understands what services are available to her.

Protection Orders:

Protection orders can be one of the most important tools a legal system has to protect a woman who has experienced domestic abuse. Victim safety, however, can be undermined if the order is not enforceable. STOP VAIW programs must assess their jurisdictional issues and develop protection orders that are legally sufficient for enforcement by outside jurisdictions.

Support systems/ Crisis Intervention:

STOP VAIW programs need to work to develop tribally specific, victim centered programs so that Indian women have a support system outside their abusive situations. Child care, job training and education are all victim service areas that need to be fully developed to provide options for Indian women who want to leave an abusive situation. While developing crisis intervention programs in Indian Country is challenging, it is not impossible and they offer substantial benefits for a victimized Indian woman.

Chapter 5 Law Enforcement

The STOP Violence Against Indian Women Discretionary Grants contain funding provisions for law enforcement activities that help to reduce violent crime against Indian women. Law enforcement agencies, as defined by the grant parameters, are any "tribal agency charged with policing functions." This does not include volunteer or BIA units. Grant funds may be used to: (1) train tribal law enforcement officers to more effectively identify and respond to violent crimes against Indian women, (2) create specialized units of tribal law enforcement officers to target violence against Indian women, (3) establish effective tribal legislative codes and protocols for police to follow in criminal domestic violence situations, (4) develop information sharing networks and data collection systems linking police with courts and victim services in order to better track offenders, and (5) develop coordinated and integrated partnerships with other tribal agencies to address violent crimes against women. The 1995 tribal grantees have developed programs that address these five permissible uses of funds.

Research on law enforcement and domestic violence in mainstream communities conflicts over how to protect the victim. One study clearly showed that arresting the offender was the best way to halt recidivism, while other studies showed that it was later detrimental to the safety of the woman.⁵³ Until recently, victims in research studies have often reported that police

⁵³ See the following for arrest associated with lower recidivism, L. W. Sherman and R.A. Berk, "The Specific Deterrent Effects of Arrest for Domestic Assault," *American Sociological Review* 49, (April 1984):261-272, quoted in Sherry L. Hamby, "Partner Violence: Prevention and Intervention" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 239. For conflicting research see, R. M. Tolman and J. L. Edleson, "Intervention for Men Who Batter: A Review of Research" in *Understanding Partner Violence: Prevalence, Causes, Consequences, and Solutions*, eds. S.M. Stith and M.A. Straus (Minneapolis, MN: National Council on Family

were not the most helpful in their situation.⁵⁴ In one study the victims wanted their story to be regarded as true and wanted their safety considered above all else.⁵⁵ In Websdale's ethnography, corrupt, political and patriarchal views of the police such as being related to offenders and considering some women "deserving" of abuse, as well as structural factors such as not having a phone and isolation, prevented both arrests and service of protection orders. He writes concerning mainstream rural areas especially in Kentucky, "the more detached the police are from the community, the more likely they are to enforce domestic violence laws."⁵⁶ Websdale found that certain law enforcement branches, those separate from local politics, better trained in domestic violence response techniques, and with career-minded orientations, were more apt to adequately respond to domestic violence than other branches.⁵⁷ Ferraro and Pope comment on the "irreconcilable difference" between the perspectives of the mainstream police who view the world in terms of individualism, "rationality," and binary oppositions. This is in contrast to the

Relations, 1995), 262-273; and J. Garner, J. Fagan, and C. Maxwell, "Published findings from the Spousal Assault Replication Program: A Critical Review," *Journal of Quantitative Criminology* 11, no. 1 (1995): 3-28; and J. Zorza, "Mandatory Arrest for Domestic Violence: Why it May Prove the Best First Step in Curbing Repeat Abuse," *Criminal Justice* 3 (fall 1993): 2-9 & 51-54, all quoted in Sherry L. Hamby, "Partner Violence: Prevention and Intervention" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 239.

⁵⁴P. G. Jaffe, E. Hastings, D. Reitzel, G. W. Austin, "The Impact of Police Laying Charges," in *Legal Responses to Wife Assault: Current Trends and Evaluation*, ed. N. Zoe Hilton (Newbury Park, CA: Sage Publications, 1993), 62-95.

⁵⁵B. Hamilton and J. Coates, "Perceived Helpfulness and Use of Professional Services By Abused Women," *Journal of Family Violence* 8 (1993): 313-324, quoted in Sherry L. Hamby, "Partner Violence: Prevention and Intervention" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 240.

⁵⁶N. Websdale, *Rural Woman Battering and the Justice System: An Ethnography* (Thousand Oaks, CA: Sage Publications, 1998), 123.

⁵⁷*Ibid.*, 124.

perspectives of many women who view the world in terms of "relationships," where experiences and choices are seen as complicated, ambiguous "compromises" made to improve everyone's (especially others) interests.⁵⁸ These views clash, and police do not understand the choices women make and have a more difficult time helping women who are experiencing domestic violence. In their observations and interviews with police and victims, they determined that "legal, ideological, practical, and political" factors impacted the police's decision making.⁵⁹ Fear of retaliatory violence by the perpetrator is one reason victims do not want to call the police. One researcher found that almost 6 times as many women do not report domestic violence as women who are victims of stranger violence.⁶⁰ Researchers and practitioners also report that more injuries are cared for in the hospital and the police are called more often after a victim leaves the offender.⁶¹ Mutual arrests are also a large issue for domestic violence. According to Hamby's synthesis, research has found that police fail to establish probable cause and place the blame on the woman for the abuse perpetrated by the offender which leads to the woman being arrested, and that mandatory arrest policies also contributed to the woman being arrested.⁶²

Kathleen J. Ferraro and Lucille Pope, "Irreconcilable Differences: Battered Women, Police, and the Law," in *Legal Responses to Wife Assault: Current Trends and Evaluation*, ed. N. Zoe Hilton (Newbury Park, CA: Sage Publications, 1993), 96-123.

⁵⁹Ibid., 111.

⁶⁰Ronnet Bachman and U.S. Department of Justice Bureau of Justice Statistics, "Violence Against Women: A National Crime Victimization Survey Report," (January 1994), 1, quoted in "General Facts About Domestic Violence," in

<http://www.cybergrrl.com/views/dv//stat/statgen.html> [cited 15 February 2000].

⁶¹Barbara Hart, "Remarks to the Task Force on Child Abuse and Neglect," (April 1992), quoted in "General Facts About Domestic Violence," in

<http://www.cybergrrl.com/views/dv//stat/statgen.html> [cited 15 February 2000].

⁶²For victim blaming see: D. A. Ford, "The Impact of Police Officers's Attitudes Toward Victims on the Disinclination to Arrest Wife Batterers." (paper presented at the *Third National Conference for Family Violence Researchers*, Durham, NH, 1987), quoted in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams

Jurisdictional Issues

Most tribal police departments experience some problems with coordinating responses to violence against Indian women in their communities. According to the survey mailed to the original fourteen grantees by the evaluation team, the most prevalent problems involve jurisdictional issues between tribal and non-tribal agencies and the lack of participation from departments not accountable directly to the tribal government.

Tribal grantees have created formal and informal methods of addressing jurisdictional problems. Jurisdiction in Indian country is determined by three issues: the nature of the offense, the land ownership patterns on the reservation, and the Indian status of the individuals involved in the offense. Many reservations have land owned by non-Indians or allotted land held individually by Indians that is not subject to tribal jurisdiction. In some areas, tribal land is spread over a wide geographical area, necessitating interaction with several criminal justice systems. Many reservations also have a sizeable non-Indian population, including mixed marriages. These factors contribute to jurisdictional conflicts between tribal and state or county criminal justice organizations. Additionally, some reservations are subject to P. L. 280, which gives the state and tribe concurrent jurisdiction over some offenses, and limits culturally relevant input into state legislative codes and policies that affect tribal members. The unique nature of jurisdictional issues in Indian country affects tribal law enforcement response to violence against Indian women. The main problems encountered by tribal police and courts involve getting tribal

(Thousand Oaks, CA: Sage Publications, 1998), 238. For mandatory arrest see D. G. Saunders, "The Tendency to Arrest Victims of Domestic Violence," *Journal of Interpersonal Violence* 10 no. 2 (1995): 147-158, quoted in Sherry L. Hamby, "Partner Violence: Prevention and Intervention" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 239.

court orders or tribal legislative codes honored by other jurisdictions, and working in concert with non-tribal police.

Full Faith and Credit/ Comity Issues

Tribal grantees recognize the importance of a coordinated response to violence against Indian women and are attempting to attain cooperation with outside courts and police for the honoring of tribal court orders. Lack of full faith and credit or comity between tribal and non-tribal courts affects the response to violent incidents significantly. Victim safety is compromised if tribal orders are not recognized. Inability to prosecute cases for violations of tribal court orders creates a system where offenders are not held accountable for their actions. Seven out of fourteen tribal grantees noted troubles getting tribal court orders recognized by county or state courts. Four grantees mentioned that non-tribal courts were reluctant to prosecute for domestic violence. Some tribes stated that tribal orders were recognized on an inconsistent basis. Consortium One, for instance, mentioned that they honored outside court orders but their orders were not honored regularly. Other grantees noted a problem with turning cases over to state or county courts because of issues such as mandatory arrest, mandatory sentencing and mandated treatment programs for offenders that were not culturally sensitive. On the other hand, some grantees noted good cooperation between tribal and non-tribal courts. One non-tribal city in Consortium Three, for example, actively prosecuted tribal domestic violence cases and also referred cases to the tribal courts.

STOP VAIW Grantee Response to Full Faith and Credit Issues

Tribes have devised several ways to overcome problems with full faith and credit recognition of tribal court orders. At TC Nine the county was not recognizing tribal legislative codes or prosecuting arrests under the code so tribal officials negotiated with the local United States Attorney's office to take the cases instead. Not all grantees have a strong working relationship with the federal government, however. Several of the STOP VAIW grant coordinators and task forces are trying to negotiate full faith and credit agreements with outside jurisdictions. Some tribal grantees with task forces or advisory boards are seeking to expand these entities to include non-tribal agencies in a coordinated response to violent crimes against Indian women. Several tribes are constructing tribal legislative codes modeled after state codes in the hope that they will be more readily accepted by outside jurisdictions. There is some concern about diminishing tribal sovereignty by modeling tribal legislative codes after state codes, but at this point the primary concern is the protection and safety of Indian women. Another solution to full faith and credit problems mentioned by a STOP VAIW grantee employee is to cross-commission both police and judges in areas of multiple jurisdictions.

Some tribal grantees have informal cooperation with state and county courts. Tribes in Consortium Three get some cases referred to them by state police and courts, but there are no formal protocols for this arrangement and the state does not recognize tribal court orders. TC Five tribal police refer victims to the county courts for protection orders due to the lack of tribal court action. Until February of 1998, TC Five did not have a code and did not assert jurisdiction in domestic violence cases. Although the county prosecutes domestic violence and enforces county protection orders vigorously, there is no formal agreement between the county and the

tribal court. Additionally, since the TC Five tribal court does not assert jurisdiction, Native victims cannot look to the tribe for resolution of their situation. According to the grant manager, the prospect of turning the complaint over to the county impeded victims from following through on complaints because the offender's family might view them as exposing the offender to a legal system that was not tribal specific.

Police in Indian Country

Policing among the fourteen tribal grantees is varied. There are a number of different types of law enforcement in use among the grantees. Some of the tribal grantees have combinations of these police types. Eleven communities have tribal police, controlled by and accountable directly to the tribal governments. Four have BIA police, controlled by the Bureau of Indian Affairs and not accountable to the tribal government. Two of the grantees are subject to state jurisdiction under P. L. 280.

Eight grantees have police funded through either Public Law 93-638 or Self-Governance funding under the Indian Self Determination Act of 1994. These laws allow the tribes to apply for federal funds for police department needs. Tribes are also eligible for policing grants such as the Grants to Encourage Arrest Policies in Domestic Violence Cases or the Community Oriented Policing Services (COPS) Grant. These grants can complement STOP VAIW funds and be used to help coordinate an effective response to violence against Indian women. For instance, a specialized domestic violence unit and domestic violence training can be funded under these other grants.

With the different types of law enforcement on the reservations, it is sometimes difficult

to develop policies and procedures acceptable to all agencies involved. BIA police, for instance, answer to the Bureau and cannot be compelled by the tribe to become involved in a coordinated community response to violence against Indian women. Funding requirements under P.L. 638 or self-governance can create reporting requirements that burden tribes with limited resources. State laws in P.L. 280 states may not reflect the culture on the reservation. Also, state or county law enforcement agencies cannot be compelled to follow tribal legislative codes in areas where they have jurisdiction.

Examples of Interaction Between Police Departments

One method used by some tribal grantees to address a lack of cooperation within tribal or BIA agencies is to involve all parties in a task force or advisory committee to help draft policies that all agencies will follow. In order to address cooperation problems with non-tribal law enforcement, some tribal grantees negotiate cross-deputization agreements with non-tribal law enforcement agencies. The reluctance of non-tribal law enforcement agencies to enter into these agreements and the failure to recognize tribal training standards are two important obstacles tribal law enforcement must overcome before cross-deputization agreements are instituted.⁶³

Six of the fourteen tribal grantees experienced a variety of problems working with outside law enforcement agencies. Among the problems were: lack of communication, lack of adequate jail space, lack of support staff, and lack of cross-deputization agreements. Among the consortia, interviews at Consortium Two suggest that the BIA police stationed there answered only the most serious cases, leaving what they deemed as the less serious cases to tribal police or

⁶³Luna, 79-80.

unanswered. At Consortium One, mixed cooperation between local police and tribal agencies, as well as tribal police reluctance to arrest for domestic violence, were mentioned as barriers to combating violence against Indian women. At Consortium Three the inadequate state police response, due mostly to the geographic isolation of the patrol area, is a significant problem. State codes in the Consortium Three area have a mandatory arrest and sentencing code for domestic violence, as well as a provision allowing police to sign the complaint regardless of the victim's wishes. The state codes are not perceived by grant employees as sensitive to the cultural and demographic needs of the tribes.

At TC Five, the county Sheriff's Department answer all calls, regardless of whether they involved Native people or happened on Indian land. Most calls involving Indians on this reservation also involved a non-Indian, so the county was claiming jurisdiction. Jurisdiction is spread intermittently over eight counties in TC Seven, necessitating interaction with several different police agencies. The TC Seven tribal police experience inconsistent cooperation from different county police agencies. Tribal grantees are engaged in on-going efforts to improve these cooperation issues.

Cross-Deputization

Among tribal grantees and non-tribal law enforcement agencies, cross-deputization agreements or working agreements evolve both formally and informally. Cooperation between departments is excellent in some cases, inconsistent in others, and non-existent in others.

Of the eleven tribes which responded to the evaluation survey, eight had a network with outside law enforcement agencies, two of those with federal agencies only. Of the three tribes

that did not answer the survey, site visit interviews revealed that two have a network. Of the consortia, separate tribes within Consortium One have agreements with non-tribal police. Because they are in a P.L. 280 state, the state police have jurisdiction, but respond only to severe acts of violence against Indian women in Consortium Three communities. Twelve of the fourteen tribes have other police departments involved in arrests. Of these twelve, six do not have cross-deputization agreements which is perceived as a hindrance to effective arrest.

Among grantees where cross-deputization agreements exist, the results are varied. Some tribal grantees experience inconsistent cooperation with outside law agencies, some experience excellent cooperation.

Tribal law enforcement in TC Seven is spread over a wide geographic area, which necessitates interaction with several county and state police agencies. Cooperation varies between these county agencies and tribal police. Some cross-deputization agreements exist but other non-tribal police refuse to respond to calls involving Native people. The process of developing cross-deputization agreements at TC Seven is time-consuming and inconsistent because the state and county must approve of these agreements. Not all jurisdictions that the tribe interacts with recognize tribal orders, making victim safety contingent upon where the victim is located. The TC One reservation straddles two states, and abuts a number of counties. Cooperation and cross-deputization agreements exist with some of the neighboring county sheriffs, but not with others. This inconsistency negatively affects victim safety. Although TC Eight has a cross-deputization agreement with the county sheriffs in their area, the state district attorney does not recognize this arrangement and therefore does not recognize tribal orders.

The consortia have different issues. The tribes that comprise Consortium One have some

agreements with outside law agencies, but not with others. Because of P.L. 280, Consortium Three is under state jurisdiction but the state police will sometimes refer cases to the tribes on an informal basis. Consortium Two does not have a network with outside law enforcement at all, except for crimes covered by federal jurisdiction.

There are also a number of positive aspects related to cross-deputization agreements. At TC Five, while there is some difficulty in initially determining jurisdiction on the reservation due to race and land ownership, this does not interfere with police response. The county sheriffs or the tribal police will respond and determine court jurisdiction afterwards. Although their agreements are not recognized by the state, TC Eight has a valuable working relationship with the county sheriffs with which they are cross-deputized. The county sheriffs help ensure security at shelters, enforce tribal orders of protection, and share information with the tribal victim services agency.

Many tribal grantees found that consistent training requirements for tribal, state, and/or county law enforcement officers improve the likelihood of cross-deputization agreements. Police who are cross-commissioned in TC Eight are required to be cross-trained. While this approach eliminates one of the non-tribal police objections to enter into these agreements, it also affects tribal ability to deliver tribally appropriate services to tribal members unless tribally specific customs and practices are included in the training.

Training of Tribal Law Enforcement Officers

When law enforcement officers receive domestic violence training in conjunction with the development of police protocols and tribal legislative codes, findings from the site visits

indicate that perpetrator arrests increase and collateral arrests decrease. Persistent, high quality training of law enforcement officers is clearly helping to change opinions, and bring the views of police officers more in line with the literature and research about the dynamics of violence against women. Site visits also revealed issues associated with law enforcement that have impeded the development of tribal programs that address violence against Indian women. In some cases law enforcement officers are reluctant to follow the advice of specialists who are not sworn tribal police or court officers. Some police officers have a set of preconceived notions about violence against Indian women which is largely based on their experiences. These preconceived ideas often contradict the information and training that domestic violence specialists offer, making it difficult for specialists who are not themselves involved in law enforcement to change the beliefs of the officers. Training has been shown to be an effective way to slowly shift law enforcement attitudes.

Employee turnover in tribal police departments can also be a barrier to consistent domestic violence training. As is often the case with non-Indian governments, many tribes experience police shortages and frequent turnover, making training a constant expense. Another complicating factor is the presence of Bureau of Indian Affairs police within some tribal communities. BIA police, since they report to the Bureau, not the tribe, have little incentive or motivation to follow protocols which are developed and enacted by the tribe.

Police training is one of the more prevalent activities of the grantees. All grantees educated police on violence against Indian women in some way. Generally, the training goals are: (1) to raise police awareness of the dynamics of domestic violence, (2) to focus attention on collaboration between criminal justice and victim service agencies, (3) to enhance victim safety

and, (4) to improve police reporting and investigation of violence against Indian women, therefore engendering an improvement in prosecution of cases.

Six of the 1995 STOP VAIW grantees developed in-service training as a result of the grant. Seven developed multi-disciplinary training through the grant; five developed police manuals; five expanded training requirements in domestic violence/sexual assault for their police. These activities existed prior to the grant in some other tribes and were augmented by STOP VAIW funds.

Training Methods

Tribal grantees used a variety of methods to educate police about violence against Indian women. Factors that determine the method of training included: (1) size of police force and turnover of officers, (2) level of awareness among police and community, (3) necessity of interacting with non-tribal law enforcement, (4) degree of cooperation between police and other tribal agencies, and (5) specific issues such as code revisions.

In-service training was conducted by many grantees to inform police about changes in tribal legislative codes and protocols, improve report writing skills and evidence gathering techniques, and improve victim advocacy. Larger scale community training sessions held by some grantees incorporated police into sessions designed to raise community awareness of violence against Indian women. Several tribal grantees contracted outside training for police and court personnel on protocol development and domestic violence response. Tribal grantees that interacted with non-tribal law enforcement agencies held training sessions that were open to these outside police agencies. Some grant directors or police chiefs also took training to these

outside jurisdictions in an effort to build working partnerships.

Because of heavy turnover in some tribal police units, some training focused on specific officers who would then pass this information along to new hires. This is a cost-effective way to defray the expense of training new officers. This method is also advantageous for departments constrained by limited budgets. The police chief at TC Seven, for instance, attends training on his own and then presents the information at police department meetings. Other TC Seven officers who attend training are expected to do the same. TC Four sent four officers for specialized training. At TC Five, the domestic violence/sexual assault officer was the only person who received training. She passes her knowledge on to other members of the force. The eventual vision is for this officer to do all training on violence against Indian women. This type of individualized training of officers can ensure that at least one officer is focused on issues pertaining to violence against Indian women, can be a cost-effective way of providing future training to new officers, and can be the impetus for creation of a specialized domestic violence/sexual assault officer in a department that has limited resources. It can, however, be a problem if that assigned officer leaves the department, taking their knowledge with them.

TC Ten has offered various training activities conducted by the grant employees. Other training has been contracted to outside agencies or individuals. The police domestic violence liaisons at TC Ten were trained by the STOP VAIW grant director and the advocate. The officers then participated in informal training and passed this information on to the rest of the police force. New officers at TC Ten receive domestic violence training from the liaison officers. TC Ten tribal police are also encouraged to seek training on their own.

Many tribal grantees combined other training resources, and these different training

methods, to give comprehensive police training. TC Four, for example, conducted in-service training on the tribal legislative codes, sent four police to outside training to give them specialized knowledge of violence against women, contracted for an outside trainer to conduct sessions on the reservation, and also contracted for training by a state coalition through another grant. TC Three has conducted in-service sessions on the tribal legislative codes and contracted outside services for general domestic violence training. TC Two has conducted both internal and external training on specific issues, such as report writing or evidence gathering.

Some tribal grantees attempt to integrate surrounding jurisdictions into their training programs. This is usually because of the need to work effectively with these other jurisdictions. TC Eight, for instance, incorporates cooperative training requirements in their county cross-deputization agreement. The tribal prosecutor at TC Eight conducted training for county sheriffs and municipal officers and police chiefs. TC Eight also conducts multi-disciplinary training in hopes that inter-departmental training will help the various law enforcement agencies with the formation of standardized policies in response to violent crimes against Indian women. The training sessions at TC Eight were provided by the counseling center for police chiefs in the county, city officers, and the county sheriff officers. Interviews at TC Eight suggest that training helped to educate various police departments and improve cooperation among them. Consortium One held training open to the tribes and to surrounding jurisdictions. TC One conducted training for the tribal and BIA police. According to some managers, these efforts met with a mixed reaction among non-tribal police.

Police Attitude Toward Training and Domestic Violence

Police acceptance of training is vital to the success of education efforts. Two important factors regarding police acceptance of training emerged during this study. First, whether police were being trained by other criminal justice persons or by non-criminal justice persons appears to make a significant difference in police acceptance of training information. Second, the difference between mandatory and voluntary training clearly affects the impact these training sessions can have. The most successful combination of these two factors appears to be mandatory training conducted by criminal justice personnel.

Interviews suggest many reasons for problems with police attitude toward violence against women. Persons interviewed from six grantees said police were reluctant to respond to domestic violence calls because they considered it a private family matter. Police attitude is affected by the "revolving door" nature of domestic violence cases, where the victim goes back to the abuser and the justice system does nothing about the complaint. Grantees who have a strong court system seem to have better response from police. Interviews conducted at Consortium Two suggest that police response was negatively affected by lack of enthusiasm, lack of police awareness, lack of staff, and victim reluctance to press charges. At TC Two a difference in attitude between newer officers and older officers was also mentioned. The older officers were less open to new ideas about violence against Indian women; the newer officers were much more accepting of new ideas. In two tribal communities a general reluctance on the part of police leadership inhibited response. In other communities disinterest of the tribal council and other tribal agencies affected tribal police response. Nearly all of the tribal grantees experienced initial problems with police training like the ones mentioned above.

For most tribal grantees, voluntary training was not well attended. In interviews with

grant employees, they often stated that initial police attitude toward domestic violence training was dismissive. According to most persons interviewed, mandatory training was not a guarantee of acceptance by police, but it did provide awareness and increase interest in domestic violence and sexual assault issues among police officers. Mandatory training also emphasizes the support of the tribal police command for the training. At TC Nine, after receiving training, the police pushed for stronger prosecution of cases. Grant managers and criminal justice workers repeatedly stressed the need for continued training of police to gradually change their awareness and acceptance of domestic violence as a criminal act.

At TC Three, domestic violence training was mandatory for police officers and court officers. The project director who has been conducting the training sessions recognized the need for the police to be educated and able to follow the domestic violence tribal legislative codes and ordinances. Over 175 police department employees at TC Three received this training. The sessions covered several areas including appropriate responses to domestic violence situations, specific techniques for handling domestic violence situations, evidence gathering and interviewing techniques. According to the TC Three grant director, domestic violence arrests doubled after training.

Impact of Training

Although many tribal communities lack adequate data collection equipment and policies to track criminal justice data, some grantees supplied this study with statistics that show a correlation between training for police officers and response to violence against Indian women. Additionally, the evaluation team gathered anecdotal information from interviews that suggests

that police training helped to improve report writing and evidence gathering procedures. These improvements eventually translate into more effective and consistent prosecution of cases.

Collateral Arrests

Collateral arrest is the practice of arresting both parties at the scene of an assault when the primary aggressor cannot be ascertained or when both parties appear to have engaged in assaultive behavior. Collateral arrests can raise child welfare and custody issues for female victims of violence. When both the man and woman are arrested, children are left to social service agencies to handle.

Four grantees discussed collateral arrest during site visit interviews. A TC Three representative stated that collateral arrests decreased from 26% before the grant to approximately 11% afterwards. This decrease coincides with four mandatory police training sessions between October 1996 and mid 1997. At TC Two, where there was extensive law enforcement training, collateral arrests have been reduced since the inception of the STOP VAIW program. TC Six, which held police training shortly after their STOP VAIW program began, has had only one collateral arrest since the inception of the grant. There are no statistics for prevalence before the grant, but persons interviewed stated collateral arrest had been much more common previously. TC Ten reported that one out of three arrests for domestic violence before the grant had been collateral. Collateral arrest went from seven during the first three months of 1996 to only one between April of 1996 and late 1997. Training has been ongoing since the inception of the STOP VAIW grant.

All of the above tribal grantees attributed a decrease in collateral arrest to training of

police. The grant director at TC Three noted that collateral arrest had been the result of rigid application of the tribal legislative codes for domestic violence. After the training, police were more capable of interpreting the code and identifying the primary aggressor at the crime scene. The grant director at TC Two saw the decrease in collateral arrest as a sign of more thorough investigation. At TC Ten police response to the mandatory arrest provision in the tribal legislative codes, which compels them to investigate the scene more thoroughly and report the reasons for police decisions, has improved since the training. By defining the "primary aggressor" in the tribal legislative codes and then training police on this term, several tribal communities are nearly eliminating collateral arrest.

Arrest/Calls to Police

Some of the tribal grantees supplied statistics for domestic violence arrests and calls responded to by police. Of the eight grantees that were able to provide statistics, five gave figures from either pre and post grant periods or beginning and later periods during the grant.

TC Two reported an increase of both calls and arrests when comparing a pre-grant year (FY 1995) to a grant cycle year (FY 1997). They reported 394 domestic violence calls in 1995, compared to 566 in 1997 (44% increase), and 167 arrests in 1995, compared to 206 in 1997 (24% increase). TC Two also reported a doubling in calls responded to between the first year of the grant cycle (10/95--10/96) and the first eight months of the second year (10/96--6/97)---from 160 to 331. Training of TC Two law enforcement was held in November, 1996, which coincides with this doubling of calls. It can be inferred that the training increased awareness, especially since the figures rose significantly immediately after the training given to police. The statistics

suggest that an increase in calls and arrests is related to both the award of a STOP VAIW grant and the subsequent law enforcement training.

TC Four reported 13 calls during the first 6 months of the grant (4/96-10/96), and 43 calls between 10/96--9/97; an approximate 65% increase. TC Eleven reported 16 arrests in 1996 and 18 in 1997--a 13% increase. Training was held in January of 1997. TC One reported 38 domestic violence calls in 1996--16 resulting in arrest. In 1997 there were 25 arrests out of 47 domestic violence calls. This is an increase of 56% in arrests and 24% in police calls between the two years.

Among tribal grantees who submitted arrest figures for more than one time period, all show an increase from either pre to post grant periods, or from the beginning of the grant to a later period in the grant. Most persons interviewed in these tribal communities attributed the rise in arrest rates to police training.

The table below indicates a sample of these increases in calls and arrests:

Tribal Community Calls and Arrests:

Year	1995	1996	1997	% Increase
TC1 Calls	--	38	47	24%
TC1 Arrests	--	16	25	56%
TC2 Calls	394	--	566	44%
TC2 Arrests	167	--	206	24%
TC4 Calls	--	13	43	65%
TC11 Arrests	--	16	18	13%

Increased arrest does create other issues, however. In TC Three, the arraignments decreased while arrests increased. In 1995, there were 113 arraignments out of 167 arrests, a

68% rate. The ratio from figures projected for a full year after the training show 242 projected arraignments (121 the first six months after training) out of 446 arrests (331 the first eight months after the training), a rate of 54%. This is most likely due to an increased case load in the tribal court. Arrest to conviction ratios were even poorer in TC Three, fluctuating between 12% and 24%. Both of the above communities have strong tribal legislative codes and court systems. The numbers in these two communities may be indicative of a problem facing all tribal grantees as the police respond more effectively to violence against Indian women. Tribal court resources may be overburdened as arrests increase. Tribal courts will need to devote more time and resources to the processing of domestic violence so that cases do not falter or are not dismissed unnecessarily.

Report Writing

Numerous people interviewed among the tribal grantees stated that training has improved report writing by the police. There has been a noticeable improvement in the quality and depth of police reports, according to a number of interviews. Improved reporting has made it easier for domestic violence cases to be prosecuted. During site visit interviews, the grant manager at TC Ten stated that dismissals due to lack of evidence have decreased since law enforcement training. Dismissal rates also lowered slightly at TC Two, where a specific training on report writing was conducted by the grant manager.

Improved Police Attitude, Response, Collaboration

Numerous tribal grantees noticed an improvement in police response to violent incidents

involving Indian women. After the inception of the STOP VAIW program, improvements in response included: police pushing for stronger prosecution of domestic violence cases, improved coordination between police and tribal victim service agencies, increased police enforcement of court orders, increased police monitoring of offender compliance with court orders, less victim blaming by police, increased willingness to arrest in insular communities, an increase in police referrals to victim services, and more victims utilizing police services. All these activities reflect an improvement in the two main functions of police: the enhancement of victim safety and assistance in prosecution of cases.

Tribal grantees cited turnover in the police department, individual police resistance, and the need to streamline procedures with outside agencies as factors that necessitate continued training activities. Grantees with limited resources face challenges in supplying training as needed. Some solutions to the need for continued training implemented by the grantees are to have a specialized officer in charge of training (such as the domestic violence/sexual assault officer), development of police training manuals for violence against Indian women, and incorporation of training requirements into police hiring procedures.

Domestic Violence/Sexual Assault Officer or Unit

Two tribal grantees had a specialized domestic violence/sexual assault officer or unit before the STOP VAIW grant; four added them through the grant. At three other communities the need for a special officer was mentioned during interviews. This officer or unit is an important component of the response to Indian women who are victims of violence. Often they serve as a bridge for communication between the police and social service agencies or courts.

The specialized officer at TC Nine originally responded to every domestic violence call. Now that the police department has been trained, the officer's duties are focused more on the monitoring of cases through the legal system. He also helps raise community and council awareness by taking various council members and victim services persons on "ride-alongs." The officer at TC Six acts as a link between the police and prosecution. His main duties are to respond to the scene, assess the thoroughness of police reports, and prepare evidence for the prosecutor. At TC Ten, there are domestic violence liaisons within the police department. Although not funded by the grant, they work closely with the grant director in monitoring offenders and their compliance with court orders. The domestic violence liaisons also conduct training for the rest of the police department and work to enhance cooperation between the police and victims services agencies. The officer at TC Eight handles all investigations of domestic violence to which tribal police respond. He also does primary interventions and refers victims to services.

At TC Five, the specialized domestic violence officer was the only police officer to receive specific domestic violence training. This officer responds to the scene and is in charge of the initial assessment of the situation and may be responsible for follow-up investigations. The domestic violence officer also refers victims to a shelter and services if needed and files detailed incident reports with the prosecutor. The prosecutor and the officer then confer about the course of action to take. The domestic violence officer also monitors police reports to make sure they are adequate.

Persons interviewed at TC Five believed that the presence of a domestic violence/sexual assault officer served as a deterrent to offenders. The grant director noted that domestic violence

calls have doubled, but also noted that some victims were reluctant to talk to the officer. Victims often would not talk to the domestic violence/sexual assault officer because they feared a prosecution would not result and their safety would be compromised. This response suggests that an officer specializing in violent crimes against Indian women is not a stand-alone component of the criminal justice response. A domestic violence/sexual assault officer works best with a strong set of laws, energetic prosecution, and positive community attitude.

Site visit interviews suggest that cooperation between the police and the domestic violence/sexual assault officer in two communities was inadequate at times. At these two locations, the officer was not being promptly informed of an incident. This problem can be rectified by development of police protocols for contacting the domestic violence/sexual assault officer.

There is presently no statistical information available on the effect of the domestic violence/sexual assault officer on arrests and convictions for violence against Indian women because these positions are generally new to the tribal grantees. The officer does appear to serve many important functions in the coordinated response to domestic violence, however.

Tribal Legislative Codes and Protocols

The development of effective tribal legislative codes and police department protocols addressing violence against Indian women is a vital component in the criminal justice response system. Tribal legislative codes or protocols can ensure cohesiveness and accountability among tribal law enforcement. All tribal grantees except one have engaged in code and/or protocol development or revision. Nearly all tribal grantee police departments have been involved in code

and protocol development. Tribal legislative codes often contain a specific description of mandatory police duties at a violent incident, thereby serving as protocols. In other tribes, protocols are a collection of standing orders issued by the police department and courts. Other tribal grantees have informal procedures.

Formal and Informal Policies and Procedures

TC Nine has a series of tribal legislative codes and protocols that compel each component of the criminal justice system to respond to domestic violence incidents. Included in the tribal legislative codes are provisions for mandatory arrest, mandatory prosecution, and mandatory sentencing guidelines. According to the grant director, having strong tribal legislative codes ensures cooperation by all parts of the criminal justice system.

The tribal legislative codes at TC Seven have detailed protocols for police response to a domestic violence incident. Among police responsibilities are report filing requirements with the prosecutor's office, mandatory arrest provisions and definitions, and evidence gathering procedures. As in TC Nine, proper police procedure is formalized with these written procedures. TC Eleven also has a formal protocol which requires the police to inform the Domestic Abuse Response Team of an incident. According to the grant director, this ensures that the victim service agency is informed of each incident and services are available to victims immediately. Other grantees also have clauses requiring police to inform victim services workers of a domestic violence incident. Some grantees also require police to provide immediate shelter or safety to the victim.

Other grantees have informal procedures that enhance cooperation between victim

services and police. TC Eight has a process in which a call comes into the county dispatcher, who then determines which jurisdiction should respond to the call. After the police are called the dispatcher calls the domestic violence crisis line administered by the tribal grantee and informs them of a potential incident. The police at the scene then decide if the victim services workers are needed at the scene and inform the dispatcher of their decision. This process is not formalized but works extremely well, according to the grant manager. The system works well because of the good working relationship between tribal police, county sheriffs, and the grantee victim service agency.

According to representatives from grantees with informal protocols, police compliance was good but inconsistent. Compliance with informal policies was contingent on two main factors: training of police and interest of police administration. Tribal police administration support of informal polices could be affected by changes in police leadership. A change in law enforcement leadership could mean a shift from a supportive administration to a leadership core that does not make combating violence against Indian women a priority. One grant manager noted that their informal protocols worked well but still agreed with the need to formalize them, citing the possibility of change of leadership among police.

Protocols and Police Response

According to most tribal grant managers, police response to violence against Indian women has improved as a result of better education among police, an active police role in planning policy, and in some cases, tribal legislative codes and protocols that clearly define the duty law enforcement has to victims of violence. Victim service referrals from police varied.

Some victim service programs stated that most referrals came from police; others, like TC One, reported less than 25% of their referrals came from police. TC Ten's solution to ensure police referrals to victim services was the development of a protocol which requires the police to notify the domestic violence response team of all domestic violence calls. Other tribes have informal systems of victim service notification. While grant managers in some communities stated that they had good informal working relationships with tribal police, the formalization of these relationships appears to advance police cooperation. Representatives from TC Nine stated that their codified rules for collaboration compel each tribal agency to work with each other and respond appropriately to violence against Indian women.

Mandatory Arrest

Eight of the fourteen tribal grantees developed mandatory arrest policies as a result of the STOP VAIW grant. Mandatory arrest is usually accompanied by mandatory incarceration of the offender for a specified time (generally 12-72 hours); this is commonly referred to as a "cooling off" period. The cooling off period is thought to provide victims time and a safe environment to make decisions about their situation by removing the offender from the scene. Police have some discretion under mandatory arrest provisions, but most tribal legislative codes contain a requirement for police to report the reason for not making an arrest. Many tribal grantees see mandatory arrest provisions as necessary to ensure victim safety.

Tribal grantees experience some problems associated with mandatory arrest. The most prevalent problem is that of inadequate jail space. Seven of the grantees do not have jails and must contract with outside jurisdictions to house persons they arrest. This creates a financial

burden on tribes with already limited resources. Consortium Two, for example, must pay between \$120 and \$200 per night to house a prisoner in surrounding jails. Additionally, the use of off-reservation jails to house prisoners is not always viewed by community members as a method of punishment compatible with tribal values. Victims may be more reluctant to follow through on complaints if they know the offender will be sent to a non-tribal jail. The victim may be viewed by the offender's family as submitting the abuser to an outside culture, where he is cut off from community and home. Some grant managers in areas without jails mentioned this as a reason for victim reluctance to press charges.

Mandatory arrest also burdens the tribal courts by overloading them. While mandatory arrest can ensure immediate victim safety, long term victim safety can be compromised because court backlogs may mean an offender is not prosecuted in a timely manner. The STOP VAIW grant manager at TC Three noted that many offenders will plead not guilty, knowing that the case will not be heard for months and that it eventually may be dismissed. Tribal grantees are trying to develop responses to these problems. TC Nine is attempting to negotiate with surrounding tribal communities to cooperatively build and administer a jail. This effort is currently in the negotiation stage.

Numerous tribes are trying to relieve the burden on courts by streamlining tribal legislative codes and instituting a monitoring systems for offenders. TC Two, for instance, employs two court officers solely to serve court orders in failure to appear cases. Several other tribal legislative codes have mandated intervention programs for batterers in lieu of jail sentences. Mandatory arrest will continue to be a burden on limited tribal resources.

Law Enforcement Information Sharing and Communication Equipment

Tribal grantees generally experience adequate levels of information sharing between agencies involved in the response to Indian women who are victims of violence. Most of the tribal police departments inform victim service or domestic violence teams of an incident promptly and share their reports with these agencies. Some police, however, are reluctant to share reports with victims services agencies because of confidentiality concerns. Grantees are negotiating with the police departments in these instances to try to alleviate police concerns. The grant manager from one tribe, whose police have these concerns, asserted that police referrals to victims services have risen since the inception of their STOP VAIW program. Police in this tribe consistently inform the domestic violence program of an incident, but do not share their reports. Some tribal protocols require police to inform victim service agencies of a violent incident, or to fill out and submit reports to the prosecution after each response. Collaboration between agencies seems to work best when it is formalized in protocols.

Sharing of information is subject to data collection capabilities and the coordination between agencies of each grantee. Some grantees have purchased equipment that augments cooperation between agencies. At TC Ten two-way radios were purchased and distributed to victim advocates. Nine of the grantees have developed computer networks linking police, victim services and the prosecution. Nearly all tribes have developed some type of standardized data collection system as a result of the grant.

Role of the Dispatcher

One of the most important areas where the need for working relationships is evident is at

the level of the police dispatcher. The dispatcher is the initial contact in any domestic violence/sexual assault incident. The dispatcher makes the determination of jurisdiction in communities that have multiple jurisdictions and often makes the initial assessment of whether a call is domestic violence related, and informs the appropriate agencies. Dispatchers also serve as a source of information and evidence gathering by logging information about calls.

Dispatchers play such a vital role in the response to violence against Indian women that some grantees are focusing efforts on developing formal dispatcher protocols to help insure consistency. Some tribes have formal procedures for the dispatcher, requiring them to record as much information as possible about the nature of the call and to notify the victim services agency. Although some grantees have formal procedures for dispatcher activities, these protocols often are followed inconsistently. Victim service agencies are not always promptly informed of an incident. Additionally, some tribal police departments get their calls from non-tribal agencies, which do not always have working agreements with tribal victim service agencies. Cross-training of dispatchers in areas of multiple jurisdictions is therefore an important issue that tribal grantees must consider. Police dispatchers must be incorporated into the response to violence against Indian women in a consistent manner in order to aid police efforts to enhance victim safety and gather evidence.

Law Enforcement Recommendations

Jurisdiction:

Each STOP VAIW program must do an assessment of their jurisdictional situation and clearly understand the jurisdictional issues that are barriers to protecting abused Indian women. Once the jurisdictional environment is clearly understood, each program should make a determined effort to start a dialogue with tribal, state, county and federal agencies with which they must work. The only feasible solution to the jurisdictional complexities that are inherent in Indian Country begins with sincere discussions of the problems with everyone who is involved.

Training:

Law enforcement training is extremely important for a successful STOP VAIW program. Police must understand the dynamics of violence against Indian women and be well equipped to handle these situations. The evaluation data suggests that the most successful training method is a mandatory training conducted by criminal justice personnel. Because of the high rates of turnover experienced by many tribal police departments, efforts need to be made to insure that training is done in such a way that one person leaving the department does not take all the knowledge with him or her.

Specialized Domestic Violence Officer or Unit:

A specialized officer or unit is effective in those communities that need and can support such a position. Each tribal STOP VAIW program needs to closely assess their situation and determine whether they have the number of cases and the personnel on hand to develop a specialized officer. If the need exists, these positions are effective in bringing consistency and knowledge to each crime that is committed against an Indian woman.

Protocols:

Development of clear law enforcement protocols are important to creating a consistent level of response to domestic violence, sexual assault and stalking calls. STOP VAIW programs should develop clear, written protocols with input from not only police officers, but also from prosecutors and victim service providers. Dispatchers must have a clear protocol so that each domestic call receives the proper response. Protocols, in conjunction with a clear and useful code, make a significant impact on the safety of Indian women who have been abused.

Chapter 6 Prosecution

The STOP VAIW program provides funding for prosecution activities to reduce violent crime against Indian women. Prosecution agencies are defined as "any public office or agency charged with direct responsibility for prosecuting criminal offenders." This does not include contracted prosecutors or any court that serves a prosecutorial function. Prosecution units among the 1995 STOP VAIW grantees were primarily involved with: developing novel systems to handle the unique situations encountered in Indian Country; helping to draft and/or revise tribal legislative codes and protocols; and developing domestic violence manuals. Prosecutors proved to be valuable members of the tribal response because of their ability to have a direct impact on the way that violent crimes against Indian women were handled by tribal criminal justice systems.

Ford and Regoli write that "[j]urisdictions vary by law, policy, and custom with respect to what determines how a case enters the system" and how domestic violence is criminally classified.⁶⁴ Furthermore, the prosecutor may have a lot of volition in the prosecution process of the case, unless formal protocols are in place.⁶⁵ Ford and Regoli write that prosecution may work towards three ends: " by punishing him [perpetrator] so that he will desist in order to avoid future punishments, by using the power of the court to force him into rehabilitative treatment, or by

⁶⁴D. A. Ford & M. J. Regoli, "The Criminal Prosecution of Wife Assaulters: Process, Problems, and Effects," in *Legal Responses to Wife Assault: Current Trends and Evaluation*, ed. N. Zoe Hilton (Newbury Park, CA: Sage Publications, 1993), 132.

⁶⁵*Ibid.*, 133.

empowering the woman to take whatever steps she deems appropriate beyond court sanctions to arrange for her own security."⁶⁶ Ptacek observed the attitudes and presentation of judges toward victims in the court room and found five different presentations toward victims in hearings for protection orders: "good-natured demeanor; bureaucratic demeanor [or] passive and detached; firm or formal demeanor [or] strict; condescending demeanor; or a harsh demeanor."⁶⁷ He then interviewed the judges and found that they attempted to create a supportive environment, except that institutional constraints such as large case loads, a lack of time to make referrals, a lack of translation services or advocates, or systemic constraints not identified by the judge, such as poverty or racism, correlate with unsupportive judicial response.⁶⁸ Ptacek writes from the perspective of the women that, " Three dimensions of fear were reported by women as particularly salient in affecting their interactions with judges: fear of retaliation by the defendants, the intimidation produced by courtroom rituals of deference, and fear that they would not be believed." ⁶⁹

Tribal Prosecution Innovations

Several grantees have adopted novel methods to deal with the unique situations they may encounter in prosecuting a domestic violence case in Indian Country. In one case, in the absence of a legally trained prosecutor, a lay prosecutorial advocate handles nearly all the duties of a prosecutor, probation officer and court clerk. In terms of the consortia, their members are usually

⁶⁶Ibid., 128.

⁶⁷J. Ptacek, *Battered Women in the Courtroom: The Power of Judicial Responses* (Boston: Northeastern University Press, 1999), 97-105.

⁶⁸Ibid., 134-135.

⁶⁹Ibid., 167.

small communities spread out over large distances and sometimes involve traditional and contemporary court systems. One consortium developed a traveling tribal court to alleviate some of the difficulties the member communities faced in prosecuting domestic violence and sexual assault cases. Prosecutors in at least two tribal communities have taken an active role in keeping lines of communication open between the various agencies that help protect abused Indian women. Two communities have used STOP VAIW funds to help finance prosecution units and one has used STOP VAIW funds to hire law clerks to assist prosecutors.

Lay Prosecutor

At TC Eleven there is no prosecutor, but rather a court director, who functions as something of a lay prosecutorial advocate. Not only does this person file court documents, but he or she also acts as a liaison between agencies, and as a tracking officer for offenders. The court director at TC Eleven is responsible for: briefing law enforcement on changes in the code or protocols as they relate to domestic violence; informing the court of any violations of court orders and sentences; and assisting victims with protection orders and tracking domestic violence cases through the system. Because this prosecutorial advocate is involved in nearly all aspects of domestic violence response, there is an open sharing of information between agencies that can help with efficient adjudication and offender accountability.

Traveling Tribal Court

Consortium Two must contend with both a large geographic area and the dual court systems the member communities have in place. In an attempt to address these concerns,

Consortium Two developed a traveling tribal court system specifically to address domestic violence and sexual assault against Indian women. The traveling court has expanded services with the addition of a prosecutor and a probation officer. The probation officer monitors domestic violence cases for compliance and is involved with the domestic violence council. Memorandums of agreements have been secured with three fourths of the members of the consortium allowing the prosecutor to intervene directly in misdemeanor assault and battery cases. Prosecution is a major component of the traveling tribal court system.

All of the members of Consortium Two have both traditional and contemporary courts. The prosecutor at Consortium Two travels to a member community to prosecute a case before the contemporary style court. By housing the prosecutor at the Consortium agency and paying part of her salary with STOP VAIW funds, each of the member communities enjoys the benefits of a prosecutor without expending the resources required to hire and maintain that position. The Consortium Two prosecutor has also been extremely valuable in helping each of the member communities develop tribal legislative codes tailored to their needs as well as keeping the lines of communication open between the member communities and the consortium agency.

Interagency Communication

Two STOP VAIW grantees have developed effective channels for communication between the prosecutors and the various agencies responding to domestic violence. At TC Ten the tribal prosecutor and the STOP VAIW grant coordinator meet frequently, five to eight times a week, to discuss individual cases. At TC Seven the tribal prosecutor, who is the STOP VAIW grant coordinator, will travel to the various agencies responding to domestic violence to

exchange information and provide any necessary updates on tribal legislative codes or protocols. The TC Seven prosecutor also expressed a desire to visit the chief of the local municipal police department in an effort to help facilitate cooperation and coordination between tribal and non-tribal police units. While these two examples of interagency communication are not codified in protocols, they have proven effective in keeping the prosecutor's office in touch with law enforcement and victim services agencies.

Additional Prosecution Staff Time

TC Ten has used STOP VAIW funds to finance the prosecutor for an additional eight hours per week. The TC Ten STOP VAIW program provides office space so the prosecutor can concentrate on cases of violence against Indian women during those additional hours. By funding the prosecutor for these additional hours, more time is being devoted to domestic violence than any other aspect of prosecution in this community. TC Two included a Domestic Violence Prosecutor in their grant proposal. During an interview the grant manager at TC Two stated that prosecution has improved since they were able to fill this position. TC Nine hired two law clerks to assist in data tracking, to review police reports, and to identify court arraignments for domestic violence incidents that were filed as assault or other crimes due to lack of a domestic violence code. The work these clerks did was valuable in assisting the criminal justice system to identify prosecution needs.

Tribal Legislative Codes and Protocols

Perhaps the most important components in any community's response to violence against

Indian women are strong policies and tribal legislative codes with specific definitions of domestic violence, stalking, and sexual assault, and guidelines for both police and court procedures. All but one of the tribal grantees are developing or revising tribal legislative codes and protocols for domestic violence response. Of the thirteen grantees that are working on tribal legislative codes, eight are developing a specific domestic violence code while five others are revising existing criminal assault and/or domestic violence tribal legislative codes. Three of the eleven tribes that responded to the evaluation survey indicated that their tribal statutes included tribal legislative codes and protocols to address sexual assault. Only one tribe indicated that stalking was covered in the tribal statutes.

Prosecution Protocols

Tribal grantees are developing policies that enhance prosecution of violence against Indian women. Although prosecutors in most grantee tribes have vigorously addressed domestic violence issues, some grantees have experienced intermittent periods of prosecution. This is usually due to the combination of a lack of specific measures in tribal legislative codes that compel prosecution, and the unwillingness of an individual prosecutor to follow through on cases. Most grantees have seen the need for the specific definition of prosecution duties to avoid cases falling through the cracks of the criminal justice system. Among the grantee responses to improve prosecution of cases are: (1) tribal legislative codes that require dismissals of cases to be a collaborative decision by police, probation department, and prosecutor, (2) mandatory prosecution provisions in tribal legislative codes, and (3) having the police sign the complaint to enable prosecution if the victim decides not to go forward with the case. Tribal grantees are

working to institutionalize criminal justice system accountability.

Training on Tribal Legislative Code Implementation

One of the most important functions of the prosecutor's office in responding to domestic violence can be found at TC Nine. The TC Nine Domestic Violence Code was developed by a task force, which included the prosecutor. After the code was developed and approved by the tribal council, a four member team was assembled to provide training on the new code to law enforcement and court officers, social service and behavioral health personnel, and advocates. These code training sessions were conducted by the prosecutor, the assistant prosecutor, the staff attorney and a law clerk. By having the prosecutor's office so thoroughly involved in tribal legislative code development and implementation, the TC Nine program increased the chances that the code would be accepted and correctly utilized by all responding agencies. According to the prosecutor and grant manager, domestic violence prosecutions rose 15% and police were becoming much more actively involved in following cases through the criminal justice process.

Specific Features of Tribal Legislative Codes and Protocols

Tribal grantees have focused on particular issues when developing tribal legislative codes, including: mandatory arrest, fines, sentencing and offender counseling provisions, definitions of crimes of domestic violence, definitions of "primary aggressor," procedures for police and prosecution to follow in a domestic violence case, provisions for violations of orders of protection or other court orders, victimless prosecution, reporting requirements, evidence gathering procedures, police responsibilities to the victim at the scene, mandatory prosecution

provisions, allowances for traditional solutions and mediation, and offender monitoring requirements.

Mandatory arrest, mandatory sentencing and counseling are included in numerous tribal legislative codes or proposed codes. These practices are seen as helping to ensure victim safety and offender accountability. Mandatory arrest provisions among tribal grantee legislative codes usually provide for a required holding period, from twelve to seventy two hours, where the offender is jailed. A no-contact order is usually issued as a condition of release.

Mandatory sentencing guidelines exist in some tribal legislative codes. These generally involve jail time that may or may not be dismissed pending offender attendance of a batterer's intervention group. One common flaw in many previous tribal legislative codes was the lack of any sentencing guidelines for offender non-compliance with court ordered batterer intervention programs. Several grantees are addressing this issue in their tribal legislative code development. Mandatory punishments are seen by many grantees as vital but are subject to tribal resource constraints (e.g., inadequate jail space).

Another focus of tribal legislative codes has been in revising and clarifying terms. Many tribal legislative codes contained definitions that were vague. Vague tribal legislative codes can result in collateral arrests and/or an inability to arrest for domestic violence, unless it was a contributing factor to another crime. Grantee representatives who discussed a decrease in collateral arrest frequently attributed the decrease to the expanded and clarified definitions found in the tribal legislative codes. Representatives from TC Four anticipate prosecuting more cases using the expanded definition of domestic violence in their code. The grant manager from TC Five noted that the police practice of removing a victim from the presence of an offender, a result

of literal interpretation of the tribal no-contact order, stopped once the terms of the order were defined to allow limited contact. Previously, the orders were being read as a mutual no-contact order, so the victim would come out of shelter and not be able to go back to the family house because the offender was there. Clarification and re-definition of the terms of the no-contact order alleviated this problem.

Evaluation of Tribal Legislative Codes

The grantees were in various stages of the tribal legislative code development/revision process at the time of the evaluation. The TLPP requested copies of the most current tribal legislative codes regarding domestic violence and sexual assault from each of the tribal grantees. The following chart details the key code elements discussed above for the nine grantees who provided the TLPP team with a copy of their current domestic violence tribal legislative codes. The three tribal consortia that were funded with FY 1995 STOP VAIW grants were generally helping each member community develop individual tribal legislative codes that catered to each community's needs. However these tribal legislative codes are not included in this chart. Two of the tribal communities, TC Six and TC Eight, had no domestic violence tribal legislative codes in place at the time of the evaluation. However they were in the process of development at that time.

Domestic Violence Tribal Legislative Codes Among 1995 STOP VAIW Grantees

Provisions	TC1	TC2	TC3	TC4	TC5	TC7*	TC9	TC10	TC11*	Total
Mandatory Arrest	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	7of9

Warrantless Arrest Only				Yes					Yes	2 of 9
Cooling-Off Period	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	7 of 9
Emergency Protection Orders	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	9 of 9
Dual Arrest Provisions	Yes	Yes	No	Yes	Yes	No	Yes	No	Yes	6 of 9
Primary Aggressor or Self-Defense Provisions	Yes	Yes	No	Yes+	Yes	No	Yes	No	Yes+	6 of 9
Cultural Provisions in Sentencing++	No	Yes	No	No	Yes	No	Yes	No	No	3 of 9
Special Jurisdiction Provisions+++	No	No	No	Yes	No	No	Yes	No	Yes	3 of 9

* These Codes were in draft form, but were in final stages of adoption by Tribe

+ These Codes had Self-Defense provisions only and not "Primary Aggressor" provisions

++Cultural alternatives in sentencing included:

Traditional alternatives to counseling (TC2);

Traditional religious counseling authorized at perpetrator's expense (TC9); and

"Culturally Sensitive Sentencing" required, which includes "traditional Remedies" (TC5)

+++Special Jurisdictional provisions included:

Authorized removal of non-member perpetrators from the reservation,

other criminal offense designated for entering into tribal community and engaging in domestic violence,

and declaration that jurisdiction extends to all areas and persons within the community (TC9);

Code specifies that tribal member or non-member may seek civil Order of Protection, and Special Service

provisions for perpetrators residing off the reservation (TC11);and

Comity provisions (TC4).

A provision not included in the chart is the mandatory reporting of domestic violence for various community service providers (e.g., doctors, teachers, nurses, etc.). These provisions were similar to child abuse reporting requirements in tribal legislative codes. Some tribal legislative codes also included provisions for seizure of weapons during the course of a domestic violence incident and prosecution.

Three tribal legislative codes contained tribal specific customs and practices or special jurisdictional provisions in their codes. These unique provisions are meant to address the widespread and difficult problems of enforcement in Indian country (jurisdictional provisions), and to include sentencing provisions that allow the perpetrator to explore traditional methods of healing. Some tribal legislative codes include general policy declarations in their codes. Some

typical statements are:

- That elders, adults and children of the community are to be cherished and respected;
- That the healing of families is to be promoted;
- That domestic violence is a community responsibility and is considered a crime against society; and
- That violent behavior will not be tolerated, whether or not the abuser is intoxicated.

These policy declarations and special cultural or jurisdictional provisions are an effort to define violence against Indian women from within the context of tribal traditions and to construct responses based upon the values and beliefs of the community.

Categorization of Criminal Acts

The survey distributed to grant recipients and the site visit interviews produced some information revealing how each community classified acts of domestic violence. Grantees without a domestic violence code usually charge domestic violence crimes under assault and battery tribal legislative codes. Grantees with a vague domestic violence section in their code also frequently charge under assault, depending upon the strength of evidence.

Classifications of domestic violence offenses vary across Indian Country. Some communities like TC Three and TC Four systematize domestic violence offenses as both felonies and misdemeanors, depending on the particulars of the case. Other communities like Consortium Two, TC Eight, and TC Nine classify domestic violence crimes as misdemeanors. TC Two and TC One consider acts of domestic violence and stalking as felonies. At TC Six and Consortium One, stalking is not classified as an illegal offense.

During a site visit to TC Ten, the prosecutor explained that the tribe experienced

difficulties in prosecuting felonies or prosecuting without the cooperation of state and federal courts. According to the prosecutor, this limits the severity of sentences, as only misdemeanor charges are filed. According to some prosecutors interviewed, classifying domestic violence as a misdemeanor restricts tribal sentencing options. Some communities, however, such as TC Nine, have responded to these limitations by filing multiple charges, charging the offender with a number of counts and different offenses, and then sentencing for each. According to the TC Nine prosecutor, this allows tribal prosecutors to plea bargain cases with the offender and still guarantee punishment by making treatment and/or decreased jail time a requirement of the plea bargain.

Disposition of Cases

Some of the eleven respondents to the evaluation survey were able to provide information on conviction rates for domestic violence, sexual assault, and stalking charges for the calendar years 1995 and 1996. Of the three crimes, the information obtained for domestic violence was both the most reliable and the most dramatic. Out of eleven survey respondents, six reported increased conviction rates for domestic violence. TC Two and TC Four experienced a doubling of conviction rates from 1995 (the first year of STOP VAIW funding) to 1996. TC Six and TC Eleven reported 10% increases between the two years. For all six respondents, conviction rates either increased or stayed constant during the first year of STOP VAIW funding.

Grant managers attributed increased conviction rates to the initiation of STOP VAIW funding and the resulting tribal legislative code development. For example, the grant manager at TC Four believed codification of domestic violence crimes delineated and clarified sentencing protocol. Before the grant, the strictest penalty for a domestic violence crime at TC Four

consisted of a \$100 fine and a brief jail term. Mandatory attendance at a batterer intervention program as part of a sentence occurred intermittently. The usual protocol at TC Four involved the judge acting as the sole mediator to reunite the couple without any follow-up interventions. Not only did this process fail to provide justice for the victim, but it failed to act as a deterrent to the abuser. At TC Four, the conviction rates rose from approximately 35% to 90% after the implementation of a domestic violence code. In contrast, TC Eight does not possess a functioning domestic violence code and their conviction rate remained constant at 0-10% in 1995 and 1996.

The survey indicated that fines as a part of sentencing for cases of domestic violence stayed at the same rates or increased with the advent of STOP VAIW funding. TC Two reported a 100% increase in offenders being fined. Five of the six respondents noted that at least 50% of offenders were fined. Of the six respondents who reported the percentage of cases that went unpunished, two noted decreases in "no punishment" by half, the other four reported constant rates. Jail sentences rose among most survey respondents. Three grantees noted increases of 100% to 150% in the number of offenders given jail time. Three other grantee rates stayed constant. Respondents who had low jail rates had problems with providing jail space for offenders. TC Two reported sentencing almost 50% of offenders to both jail and fines.

The data shows an increase in the severity and frequency of sentences once STOP VAIW funded programs were in place. Certain patterns can be recognized in the sentencing approach of each grant recipient. For example, TC Four reported a rise in conviction rates, and a drop in cases where no punishment was given. TC Six reported increased conviction rates and a decrease in the probation only sentence, but increases in jail terms and combined jail and

probation sentences (this particular combination had an almost 100% increase). After new sentencing practices were instituted at TC Ten only one repeat offender was seen in twelve cases. The evaluation data clearly shows that tribal grantees are prosecuting and sentencing domestic violence crimes more vigorously since the STOP VAIW grant.

Some tribal grantees also provided statistics on case disposition. TC Three reported a total of 306 arraignments out of 570 cases for incidents of violence against women in 1996 (54%). Of these 306, 29% resulted in convictions, 29% were dismissed, 38% were pending, and 4% had other dispositions.

Other grantees noted increases in domestic violence prosecution activities. At TC Two, taking FY 1995 as a baseline, arraignments for incidents of violence against women increased 57% in 1996, and 11% in 1997. Complaints increased 62% between 1995 and 1997.

Consortium Two reported a 200% rise in prosecution since the grant. TC Nine reported 144 domestic violence cases in tribal court since the inception of the code (2/97--11/97). According to the prosecutor, this is a 15% increase over the previous year. Overall, the evaluation data suggests that tribal grantees experienced increased numbers of domestic violence cases reaching court during the grant cycle.

For sexual assault, the situation is somewhat different. While all eleven respondents to the survey indicated that sexual assault was categorized as a criminal act, only three grantees reported dispositions for sexual assault cases from 1995 to 1996.

TC Six reported that fewer than 10% of sexual assault cases resulted in convictions and that almost all offenders (86-99%) received no punishment. Fewer than 10% of offenders were fined, received a jail or prison sentence, or probation for offenses.

At TC One fewer than 10% of sexual assault charges resulted in conviction. The evaluation survey indicated that, at TC One, 100% of offenders were fined, less than 10% received only probation, and less than 10% received a jail or prison sentence.

TC Eleven reported that almost all (86-99%) sexual assault cases resulted in convictions. Jail sentences and probation resulted for 71-85% of those convicted.

Little information was included in the survey responses about stalking. While eight grantees indicated that stalking was categorized in their tribal statutes as a criminal act, only one indicated that there had been any criminal dispositions of that charge.

Domestic Violence Manuals

As of 1997, two of the grantees were either utilizing or developing a domestic violence manual for prosecutors. Consortium Two has developed training packets for each member tribe. It is a comprehensive packet with information focusing on domestic violence. *A Tribal Prosecution Manual: A Criminal Response to Domestic Violence* was created by the implementing subgrantee. Included in the manual are topics such as: "A Domestic Violence Criminal Law Charging Manual" for tribal judges, and "A Law Enforcement Plan: Reporting Procedures" for tribal law enforcement. Currently, TC Six is working on a domestic violence manual for prosecutors.

Prosecution Recommendations

Innovation:

Tribal prosecution units have a great deal of potential for developing innovative ways to assist Indian women who have been victimized. Each STOP VAIW program must assess their needs

and develop appropriate responses for prosecutors. Lay advocates and the traveling tribal court are two innovations that were successfully implemented by FY 1995 STOP VAIW grantees, but each program may have needs that are unique. Prosecutors should take a leading role in developing innovative systems that protect victims and hold offenders accountable to the community.

STOP VAIW Funded Prosecution or Additional Staff Time:

Because the STOP VAIW program allows funds to be used for prosecutors, tribal programs without the resources to hire a prosecutor full time should use these grants to at least partially fund a prosecution unit. A prosecutor is vital to helping protect a victim and hold an offender accountable, so those communities that do not have a prosecutor should assess the feasibility of developing this position with STOP VAIW funds.

Tribal Legislative Codes:

Tribal prosecutors play a vital role in tribal legislative code development and implementation. In this role prosecutors should seek community support, and attempt to integrate community/culturally specific features in domestic violence, sexual assault and stalking tribal legislative codes. Prosecutors are also valuable in training others on a newly developed code and helping to insure that the tribal legislative codes and protocols are followed.

Protocols:

Prosecutors should develop and implement protocols that provide for clear and consistent responses to cases that involve violent crimes against Indian women. Because of the newness of domestic violence tribal legislative codes and the problems associated with prosecuting these cases, protocols are important in insuring that cases are handled appropriately by all prosecutors. Effective prosecution protocols allow fewer cases to slip through a system and therefore are helpful in protecting Indian women and holding offenders accountable.

Chapter 7 **Discretionary Spending**

According to STOP VAIW grant requirements, 25 % of the grant funds may be expended at the grantees' discretion. For the most part FY 1995 tribal grantees used their discretionary funds to develop and implement or supplement probation services, and develop and implement or supplement court mandated batterer intervention groups. By making offenders accountable to the criminal justice system, STOP VAIW programs are attempting to protect Indian women from abusers and hold batterers accountable for the crimes they have committed.

Compliance/Probation/Tracking Officers

A number of tribal grantees have developed or enhanced existing positions that track an offender's movement through the criminal justice system. Particular attention is paid to compliance with court judgements. Of the fourteen tribal grantees evaluated for this report, at least six tribes had a position delegated for tracking offenders, or were in the process of developing such a position.

One of the most thorough and clearly defined examples of the tracking officer can be found at Tribal Community Three. The TC Three tracking officer, a STOP VAIW funded position, is responsible for monitoring the progress of the offender all the way through the system. The duties of the tracking officer are: 1) to perform an initial arrest interview and to write a report based on the interview; 2) to perform a background check on the offender once he has been arrested; and 3) to track compliance with the court mandated batterer's intervention program and report any failure to comply back to the court. At the time interviews were

conducted at TC Three, it was too early to accurately assess whether this officer was making a measurable difference. Some of the persons who were interviewed, however, stated that the work of the tracking officer, especially the reporting of non-compliance with court ordered batterer intervention programs, was positively impacting offender accountability.

Court Mandated Batterer's Intervention Programs

Hamby outlined the purposes of batterer's groups as "(a) ensuring the female partner's safety, (b) altering attitudes toward violence, (c) increasing perpetrators' sense of personal responsibility, and (d) learning non-violent alternatives to past behaviors."⁷⁰ Practitioners and academics have devised two categories of batterer's intervention programs. First, batterer's intervention programs based upon educational efforts targeted toward "power and control issues" which are societal, and secondly, those targeted for "anger management" which insists on individual responsibility and thirdly, those that combine both approaches.⁷¹ Research has been unable to establish whether or not batterer's groups of either kind help men stop violent behavior.⁷²

Domestic violence offenders are often given a sentence that includes participation in a batterer's intervention program. Many tribal grantees understand the importance of such a

⁷⁰ J. L. Edleson and R. M. Tolman, *Intervention for Men who Batter* (Newbury Park, CA: Sage Publications, 1992) quoted in Sherry L. Hamby, "Partner Violence: Prevention and Intervention" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 222.

⁷¹ Sherry L. Hamby, "Partner Violence: Prevention and Intervention" in *Partner Violence: A Comprehensive Review of 20 Years of Research*, eds. Jana L. Jasinski and Linda M. Williams (Thousand Oaks, CA: Sage Publications, 1998), 222-225.

⁷² *Ibid.*, 225-233.

program. They are in various stages of implementing or designing such groups. For example, TC Four had an organized program in the past, but with the departure of the facilitator, the group no longer meets. TC One provided no batterer's intervention program, but they plan to fund a program, with a probation officer to ensure attendance, through the next STOP VAIW grant. One community in Consortium One provides a batterer's intervention program, while the other communities are discussing plans for community focused batterer's intervention programs. At TC Five, men are referred to off-reservation groups after a failed attempt to form one for the reservation community, although they are exploring the idea of forming another batterer's intervention program. TC Seven's group facilitator is attempting to arrange state sentenced Native offenders to the on-reservation group. The funds to support such groups are gathered from different sources that complement court mandates developed under the STOP VAIW grant. For example, TC Nine supports their group with a separate grant program, while the development of the sentencing conditions was a grant activity.

Grantees are sometimes reluctant to send offenders to off-reservation services because these programs are not always compatible with tribally specific customs and practices. One group, TC Six, keeps abusive tribal members within the community. TC Six plans to create a half-way house for domestic violence offenders, so the victim can remain at home and not have her routines or her children's routines disrupted. Meanwhile, the community uses temporary arrangements to house the offender away from the victim for a period of time. With the advent of STOP VAIW funding, TC Six established a twenty-four week male batterer's intervention class. It is attended either voluntarily or as a condition of probation. The probation officer runs the group. The process begins with a written contract of attendance. If this is violated, the

offender faces a possible jail sentence. Both the TC Six STOP VAIW grant coordinator and the probation officer track the offenders to ensure attendance. However, difficulties in enforcing the contracts have arisen because the duties of actual enforcement are not clearly defined in practice. The result is that men have been able to shirk the contracts with impunity. At TC Six the length of a jail sentence (twenty-four weeks) and the length of the classes (twenty-four weeks) closely coincide, so it is difficult to ensure an offender's attendance in the classes after they have served their jail sentence. Anecdotal evidence indicates that most offenders do not complete the classes.

The formerly described difficulties do not occur in all programs, however. For example, at TC Ten, the batterer's intervention program is also a twenty-four week course. However, if the offender misses one session, they receive a sentence of thirty days in jail. TC Three is expanding their batterer's intervention program from twenty-four weeks to a full year. The STOP VAIW grant was helpful in allowing the probation officer to distribute her other duties so she could focus her attention on monitoring offenders compliance with the batterer's group. TC Two utilizes the STOP VAIW coordinator, advocates, and an actual tracking officer to confirm compliance with the men's group. TC Eleven has experienced difficulties in funding their batterer's intervention program. However, their protocols indicate that every guilty plea or conviction includes attendance at a batterer's intervention program as a mandatory sentence. If the offender does not attend the group, a contempt of court order and an arrest warrant are issued.

According to the grant manager at Consortium Two, their batterer's intervention program is highly effective. The twenty-four week program is either court mandated or voluntary. During an intake meeting, the offender signs a behavior and attendance contract. The issues covered in the meeting include: 1) historical Native perspectives on domestic violence; 2) taking

responsibility for their violence; 3) examining the belief systems that support that violence; 4) the consequences of violence; 5) the effects of violence on children, on relationships, and on the community; 6) learning non-abusive behavior and skills; and, 7) maintaining a control log. If an offender misses class, then a letter is written to the judge who issues a bench warrant and the perpetrator starts the class over again.

As shown by the example of Consortium Two, effective batterer's intervention programs can be important in holding offenders accountable for their actions. It is critical that probation officers or tracking officers enforce non-compliance issues in order for the system at Consortium Two to work.

Discretionary Spending Recommendations

Probation/Tracking Officers:

STOP VAIW programs should assess the needs of the community and develop some type of appropriate position that is designed to keep track of a domestic violence offender. With new and revised tribal legislative codes, tribal criminal justice systems are processing more offenders and must attempt to keep these offenders accountable to the system. The probation/tracking officer position should be designed so that the officer reports any failure to comply with a court order directly to the court.

Batterer Intervention:

Development of a batterer intervention program can be an effective alternative to incarceration if the program is designed with community input and offenders are held accountable for non-compliance. STOP VAIW programs that have no incarceration facilities or have concerns about removing an offender from the home or community should consider developing a structured batterer intervention program. In conjunction with a probation/tracking officer, batterer intervention programs can be successful in making an offender accountable for his actions.

Conclusion

The STOP VAIW program is allowing tribal governments to assert their status as sovereign nations. It is also making a significant impact on violent crimes against women in American Indian and Alaska Native communities. STOP VAIW grants empower Native communities in the development of tribally specific, community centered approaches to combating violent crimes against Indian women. With federal and state court infringement on the inherent sovereignty of American Indians and Alaska Natives, the STOP VAIW program has provided an area where tribal governments can strengthen their progress toward self-governance and self-determination. Thus, *de facto* tribal sovereignty, that which naturally results from empowerment and the assertion of governmental authority and responsibility, whether or not explicitly permitted under existing laws, is heightened by the implementation of tribal STOP VAIW programs.

As sovereign nations, American Indian and Alaska Native governments must contend with a serious social problem: many Indian women suffer physical, sexual and psychological abuse at the hands of someone with whom they share their home. The FY 1995 STOP VAIW grant recipients have made significant advances in the effort to protect abused Indian women and hold offenders accountable for their actions. These advances primarily have been the result of coordinated, community based efforts. Domestic violence, sexual assault and stalking are difficult problems to solve. Police officers and prosecutors alone cannot stop abuse. An advocate, no matter how dedicated and passionate about the cause, cannot stop abuse. The FY 1995 STOP VAIW grantees have demonstrated the success of implementing a coordinated community approach to stopping the cycle of violence that exists in many Indian homes. By

bringing together police officers, prosecutors, judges, victim service personnel, tribal leaders and interested community members, STOP VAIW grantees are drawing on indigenous as well as American ideas about justice and community wellness to stop abuse in their communities.

With the development of training sessions, including community oriented training, the formation of task forces, the creation of numerous advocate and prosecutorial positions, the development and implementation of firm tribal legislative codes and protocols, the creation of safe spaces for victims of abuse, and generally the commitment to keeping Indian women safe, the 1995 STOP VAIW grantees made the first steps toward stopping the abuse of the Indian women in their communities. The community centered goals of the STOP VAIW program have proven to fit well with many tribal communities who are seeking community oriented methods to respond to violent crimes being committed against Indian women. The work to protect Indian women must continue and the STOP VAIW program is vital to these efforts in Indian Country.

The unique nature of Indian Country requires unique responses. The FY 1995 STOP VAIW grantees proved that there are a tremendous number of American Indian and Alaska Native people willing to use their creativity, determination and passion to help heal their communities and protect their women.

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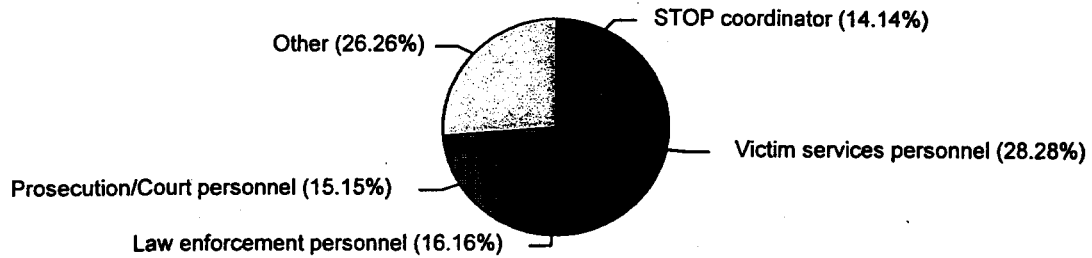
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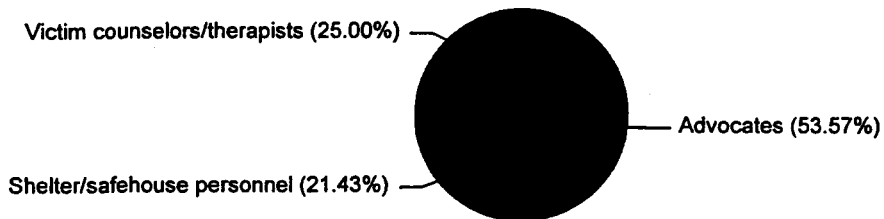
Appendix A

Evaluation Interviews

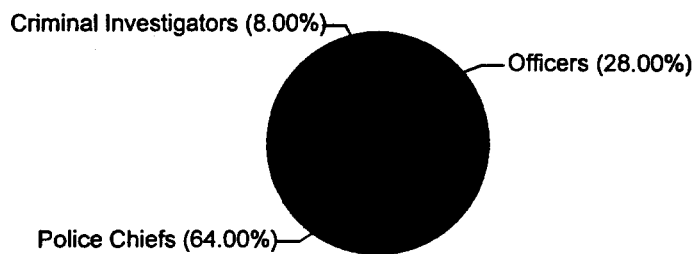
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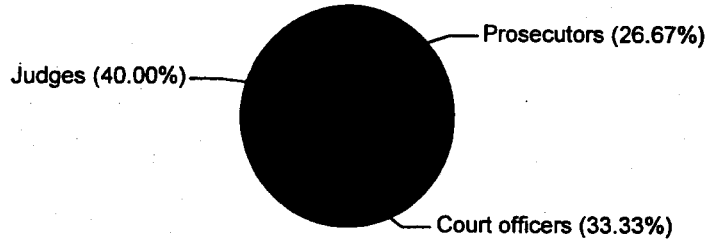
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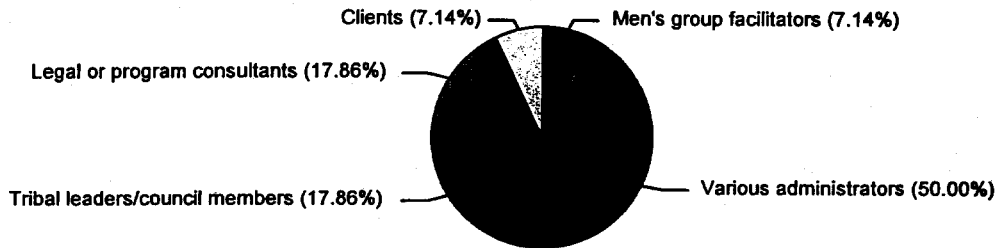
Law enforcement detail



Prosecution/court personnel detail



Other Detail



Appendix B:

VAWA STOP Grant Recipient Survey

Conducted By

The Tribal Law and Policy Program

at

The University of Arizona

Tucson, Arizona

The National Institute of Justice, the research and evaluation arm of the Department of Justice, has contracted with the Tribal Law and Policy Program at the University of Arizona to conduct an impact evaluation of all STOP Violence Against Indian Women Programs. The following survey must be completed by tribal VAWA grantees as part of the impact evaluation. The survey focuses on four major areas: General Concerns, Victim Services, Law Enforcement, and Prosecution. Please answer the following question to the best of your ability, based on all available information. If you have any questions or concerns about this survey, please feel free to contact Dan Ferguson at (520) 621-5055 between 9:00 a.m. and 1:00 p.m. Mountain Standard Time. Please return the completed survey by Friday, December 12, 1997 to:

The University of Arizona
American Indian Studies Programs
Attn: Professor Eileen Luna
Harvill 430
P.O. Box 210076
Tucson, Arizona 85721-0076

Directions: Answer each question by marking the appropriate box and/or writing in the space provided. Some questions may provide an "other" box. If none of the choices pertain to your community or program(s), mark the "other" box and write in your answer within the space provided.

Tribe: _____

Your Name: _____

Your Position: _____

Actual Date STOP grant money was first received: _____

I. General Concerns

1. This question calls for the general customary thought of tribal members, not the tribal codes on domestic violence. To the best of your ability please indicate whether or not the acts listed are considered acts of domestic violence within your tribe's community.

	<u>No</u>	<u>Yes</u>
<u>A) Throwing objects</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>B) Pushing, grabbing, or shoving</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>C) Slapping</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>D) Kicking, biting, or hitting with a fist</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>E) Hitting or trying to hit with an object</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>F) Beating up</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>G) Choking</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>H) Threatening with a knife or gun</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>I) Using a knife or firing a gun</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>J) Verbal abuse</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>K) Mental neglect</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>L) Physical neglect</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>M) Emotional abuse</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>N) Psychological abuse</u>	<input type="checkbox"/>	<input type="checkbox"/>

2. Indicate whether or not the items listed are factors that provoke or cause domestic violence within the community.

	<u>No</u>	<u>Yes</u>
<u>A) Alcohol abuse</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>B) Unemployment/financial hardship</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>C) Drug abuse</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>D) Infidelity</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>E) Lack of domestic violence education</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>F) Customs/cultural norms</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>G) Depression</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>H) Attitudes toward opposite gender</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>I) Stresses from substandard/crowded housing</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>J) Stresses of child rearing</u>	<input type="checkbox"/>	<input type="checkbox"/>

3. When crimes of violence against women are not reported to police officials, indicate what are the most likely reasons for not reporting these crimes.

	<u>No</u>	<u>Yes</u>
<u>A) Fear of spousal retaliation</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>B) Fear of losing child custody</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>C) Cost of filing complaints or initiating the procedure</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>D) Shame/embarrassment</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>E) Loss of income from spouse</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>F) Pressure from family/church to keep family intact</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>G) Other(s):</u>	<input type="checkbox"/>	<input type="checkbox"/>

II. Victim Services

1. Indicate whether the following programs/items existed in your community to combat violence against women before it received the STOP grant, then indicate whether or not the same programs/items exist now. If a program/item does exist, list the month and year it began. If it is being planned, check the "no" box and list the month and year it will start.

	<u>Before STOP grant</u>		<u>After STOP grant</u>		<u>Date</u> <u>(started or</u> <u>will start)</u>
	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	
<u>A) Shelter or safe house</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>B) Telephone hotline</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>C) Victim support groups</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>D) Batterer's therapy group</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>E) Women's self defense classes</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>F) Network of translators for various languages</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>G) Videotapes available describing procedures for filing a domestic violence/sexual assault/stalking complaint</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>H) Accompaniment programs (i.e., accompanying victims to hospitals, police depts., etc.)</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>I) Training programs for medical personnel</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>J) Reservation-wide victimization survey on violence against women</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>K) Fax machines for victim services programs</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>L) Standardized data collection instruments for sexual assault and domestic violence services</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>M) Data collection system for needs assessment</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>N) Data system for collecting service evaluation from victim service users (i.e., questionnaires)</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<u>O) Education/outreach programming</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

2. Was consultation sought for designing the victim services programs aimed at reducing violence against women?

No Yes Unknown

3. If consultation was sought, who were the consultants?

- Professional social program designers
- Tribal members
- Social workers
- University faculty
- Medical professionals
- Lawyers
- Policy analysts/public administration consultants
- Other(s): _____

4. What percentage of the total VAWA STOP grant funds are used for victim services? (includes all programs and costs, salaries of program employees, equipment, etc.)

- 0-20%
- 21-35%
- 36-45%
- 46-60%
- Over 61%

5. Of the percentage used for victim services (from question 4), what percentage is spent on salaries and wages of the program's employees? (includes directors, consultants, counselors, and support staff)

- 0-10%
- 11-25%
- 26-40%
- 41-55%
- Over 56%

6. Of the percentage used for victim services (from question 4), what percentage is spent on facilities and equipment? (includes rent, equipment, computers, clothing/supplies/food for victims, and compensation for community members providing safe houses)

- 0-10%
- 11-25%
- 26-40%
- 41-55%
- 56-70%
- Over 71%

7. Are any programs designed to reduce violence against women located off the reservation available to the residents of the community? No Yes Unknown

8. If there are programs designed to combat violence against women located off the reservation, approximately what is the distance from the community?

- 0-5 miles
- 6-10 miles
- More than 11 miles
- No off-reservation programs are available

9. If off-reservation domestic violence services are available, approximately how many hours per week does your staff spend working with these resources?

- 1-4 hours per week
- 5-9 hours per week
- 10-14 hours per week
- 15-19 hours per week
- 20-24 hours per week
- more than 25 hours per week

10. How integrated (victim intake/tracking, perpetrator tracking, service coordination) with tribal programs are the off-reservation services?

- Before STOP grant
- completely
 - somewhat
 - not at all

- After STOP grant
- completely
 - somewhat
 - not at all

11. A) Must victims pay for the use of victim services, i.e., the costs of staying at shelters, food, counseling, etc.?

- | <u>Before STOP grant</u> | |
|------------------------------|------------------------------|
| <u>On reservation</u> | <u>Off reservation</u> |
| <input type="checkbox"/> No | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> Yes |

- | <u>After STOP grant</u> | |
|------------------------------|------------------------------|
| <u>On reservation</u> | <u>Off reservation</u> |
| <input type="checkbox"/> No | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> Yes |

B) If "Yes" to either before or after the STOP grant, what percentage of services did/do victims have to cover?

- | <u>Before STOP grant</u> | |
|------------------------------------|------------------------------------|
| <u>On reservation</u> | <u>Off reservation</u> |
| <input type="checkbox"/> None | <input type="checkbox"/> None |
| <input type="checkbox"/> 1-10% | <input type="checkbox"/> 1-10% |
| <input type="checkbox"/> 11-20% | <input type="checkbox"/> 11-20% |
| <input type="checkbox"/> 21-30% | <input type="checkbox"/> 21-30% |
| <input type="checkbox"/> 31-40% | <input type="checkbox"/> 31-40% |
| <input type="checkbox"/> 41-50% | <input type="checkbox"/> 41-50% |
| <input type="checkbox"/> 51-60% | <input type="checkbox"/> 51-60% |
| <input type="checkbox"/> 61-70% | <input type="checkbox"/> 61-70% |
| <input type="checkbox"/> 71-80% | <input type="checkbox"/> 71-80% |
| <input type="checkbox"/> 81-90% | <input type="checkbox"/> 81-90% |
| <input type="checkbox"/> 91-99% | <input type="checkbox"/> 91-99% |
| <input type="checkbox"/> All costs | <input type="checkbox"/> All costs |

- | <u>After STOP grant</u> | |
|------------------------------------|------------------------------------|
| <u>On reservation</u> | <u>Off reservation</u> |
| <input type="checkbox"/> None | <input type="checkbox"/> None |
| <input type="checkbox"/> 1-10% | <input type="checkbox"/> 1-10% |
| <input type="checkbox"/> 11-20% | <input type="checkbox"/> 11-20% |
| <input type="checkbox"/> 21-30% | <input type="checkbox"/> 21-30% |
| <input type="checkbox"/> 31-40% | <input type="checkbox"/> 31-40% |
| <input type="checkbox"/> 41-50% | <input type="checkbox"/> 41-50% |
| <input type="checkbox"/> 51-60% | <input type="checkbox"/> 51-60% |
| <input type="checkbox"/> 61-70% | <input type="checkbox"/> 61-70% |
| <input type="checkbox"/> 71-80% | <input type="checkbox"/> 71-80% |
| <input type="checkbox"/> 81-90% | <input type="checkbox"/> 81-90% |
| <input type="checkbox"/> 91-99% | <input type="checkbox"/> 91-99% |
| <input type="checkbox"/> All costs | <input type="checkbox"/> All costs |

C) Are tribal resources available to underwrite the costs of victim services?

- | <u>Before STOP grant</u> | |
|------------------------------|------------------------------|
| <u>On reservation</u> | <u>Off reservation</u> |
| <input type="checkbox"/> No | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> Yes |

- | <u>After STOP grant</u> | |
|------------------------------|------------------------------|
| <u>On reservation</u> | <u>Off reservation</u> |
| <input type="checkbox"/> No | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> Yes |

12. A) Have on reservation victim services programs had any problems obtaining police services for their clients?

Before STOP grant

No Yes

After STOP grant

No Yes

B) If "Yes," mark all types of problems:

	<u>Before STOP grant</u>	<u>After STOP grant</u>
a) <u>Lack of police enthusiasm</u>	<input type="checkbox"/>	<input type="checkbox"/>
b) <u>Lack of police manpower</u>	<input type="checkbox"/>	<input type="checkbox"/>
c) <u>Costs</u>	<input type="checkbox"/>	<input type="checkbox"/>
d) <u>Client refuses to talk with/report to police</u>	<input type="checkbox"/>	<input type="checkbox"/>
e) <u>Lack of police education on issues of violence against women</u>	<input type="checkbox"/>	<input type="checkbox"/>
f) <u>Client refuses to press charges</u>	<input type="checkbox"/>	<input type="checkbox"/>
g) <u>Other(s):</u>		

13. A) Do courts issue court orders based upon information provided by victim services?

Tribal courts

State courts

Courts of Federal Regulation

No Yes

No Yes

No Yes

B) If tribal courts issued orders based upon victim services information, approximately how many orders were issued?

For calendar year 1995

1-5

6-10

11-15

16-20

Over 21

For calendar year 1996

1-5

6-10

11-15

16-20

Over 21

C) If state courts issued orders based upon victim services information, approximately how many orders were issued?

For calendar year 1995

1-5

6-10

11-15

16-20

Over 21

For calendar year 1996

1-5

6-10

11-15

16-20

Over 21

D) If CFRs issued orders based upon victim services information, approximately how many orders were issued?

For calendar year 1995

1-5

6-10

11-15

16-20

Over 21

For calendar year 1996

1-5

6-10

11-15

16-20

Over 21

E) What types of court orders were issued?

- Restraining orders
- Protection orders
- Arrest warrants
- Other(s):

D) From what other court(s) has victim services sought these orders?

	<u>Before STOP grant</u>	<u>After STOP grant</u>
a) <u>Tribal adult courts</u>	___ <input type="checkbox"/>	<input type="checkbox"/>
b) <u>Tribal juvenile courts</u>	___ <input type="checkbox"/>	<input type="checkbox"/>
c) <u>State superior courts</u>	___ <input type="checkbox"/>	<input type="checkbox"/>
d) <u>Justice courts</u>	___ <input type="checkbox"/>	<input type="checkbox"/>
e) <u>City courts</u>	___ <input type="checkbox"/>	<input type="checkbox"/>
f) <u>Federal district courts</u>	___ <input type="checkbox"/>	<input type="checkbox"/>

14. A) Is the development of domestic violence codes/ordinances a component of your victim services program?

- | <u>Before STOP grant</u> | <u>After STOP grant</u> |
|--|--|
| <input type="checkbox"/> <u>No</u> <input type="checkbox"/> <u>Yes</u> | <input type="checkbox"/> <u>No</u> <input type="checkbox"/> <u>Yes</u> |

B) If "Yes" to either, at what stage of code/ordinance development is your victim services program in?

- Planning to develop codes/ordinances, but have not yet started
- Currently developing or revising codes/ordinances
- Codes/ordinances adopted by the tribal government

C) Please list, by title or category, not by name, anyone else who has been involved with helping your victim services program develop codes/ordinances:

III. Law Enforcement

If your 1995-96 or 1996-97 VAWA STOP grant includes a law enforcement component, please answer the following questions to the best of your ability, using all the resources which are available.

1. What percentage of the total VAWA STOP grant funds are used directly for law enforcement?

- 0-10%
- 11-15%
- 16-20%
- 21-25%
- 26-30%
- Over 31%

2. For each item listed below, indicate whether or not it is a component of your law enforcement program regarding violence against women.

	<u>Before STOP grant</u>	<u>After STOP grant</u>
	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
A) <u>Multi-disciplinary training courses</u>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
B) <u>Special seminars/in-service courses</u>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
C) <u>Expanded training requirements on domestic violence and sexual assault</u>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
D) <u>Domestic violence police manual</u>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
E) <u>Domestic violence and sexual assault units within the police force</u>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
F) <u>Modern investigative and communications equipment for domestic violence/sexual assault units</u>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
G) <u>Modern data systems for tracking sexual assault and domestic violence cases</u>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
H) <u>Jail release notification systems for victims and victim services</u>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
I) <u>Computerized system linking law enforcement, prosecution, and the courts to track domestic violence arrests, protection orders, violations, and convictions</u>	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes

3. Do tribal police protocols contain a mandatory arrest policy for crimes of domestic violence, provided there is probable cause?

<u>Before STOP grant</u>	<u>After STOP grant</u>
<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes

4. Do tribal police protocols contain a mandatory arrest policy for the crime of sexual assault, provided there is probable cause?

<u>Before STOP grant</u>	<u>After STOP grant</u>
<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes

5. Do tribal police protocols contain a mandatory arrest policy for the crime of stalking, provided there is probable cause?

<u>Before STOP grant</u>	<u>After STOP grant</u>
<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes

6. Do tribal police tend to be reluctant to intervene in domestic violence situations due to the belief that it is a "family matter?"

<u>Before STOP grant</u>	<u>After STOP grant</u>
<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes

7. Do tribal police have a network system with federal, state, county and/or city police departments?

No Yes

8. A) Are any other police agencies involved in the arrest/prosecution/incarceration of those accused/convicted/incarcerated for crimes of domestic violence?
 No Yes

B) If "Yes," check any of the listed difficulties related to these other agencies which have hindered your ability to carry out your mission.

- Communication
- Willingness to prosecute
- Availability of detention facilities
- Lack of cross-deputization
- Recognition of tribal court orders by surrounding agencies
- Other(s):

8. Are any police officers specifically assigned to work with the VAWA STOP program(s)?

No Yes

9. A) Is the development of domestic violence procedures and protocols a component of your law enforcement program?

<u>Before STOP grant</u>	<u>After STOP grant</u>
<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes

B) If "Yes" to either, at what stage of procedure/protocol development is your law enforcement program in?

- Planning to develop procedures/protocols, but have not yet started
- Currently developing or revising procedures/protocols
- Procedures/protocols adopted by the tribal government

C) Please list, by title or category, not by name, anyone else who has been involved with assisting your law enforcement agencies develop procedures/protocols:

IV. Prosecution and the Courts

If your VAWA STOP grant includes prosecution and court components, please answer the following questions to the best of your ability, using all the resources which are available.

1. What percentage of the total VAWA STOP grant funds are used for prosecution?

- 0-10%
- 11-25%
- 26-35%
- 36-45%
- 46-55%
- Over 55%

- | | <u>Before STOP grant</u> | <u>After STOP grant</u> |
|---|--|--|
| 2. <u>Do the victims bear any personal expenses for forensic medical examinations related to filing a charge of sexual assault?</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 3. <u>Do the victims bear any out-of-pocket expenses for court costs when filing <i>civil</i> complaints of domestic violence?</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 4. <u>Do the victims bear any out-of-pocket expenses for court costs when filing <i>criminal</i> complaints of domestic violence?</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |

5. Indicate whether or not the listed items, which relate to violence against women, exist within the court system.

- | | <u>Before STOP grant</u> | <u>After STOP grant</u> |
|--|--|--|
| A) <u>Multi-disciplinary training for judges and prosecutors</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| B) <u>Specialized training for prosecutors to prosecute domestic violence and sexual assault cases</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| C) <u>Training for process servers on issues related to domestic violence cases</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| D) <u>Domestic violence manuals for prosecutors</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| E) <u>Special judicial and prosecutor seminars and/or in-service courses</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| F) <u>Oversight committee to identify criminal justice system problems and supervise efforts to alleviate them</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| G) <u>Free legal services for the preparation of protection orders</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| H) <u>Procedures that honor the protection orders issued by other jurisdictions</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |
| I) <u>Bench books for judges and court personnel</u> | <input type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> Yes |

6. How are the following criminal acts of violence against women categorized?

- | | <u>Misdemeanor</u> | <u>Felony</u> | <u>Not Illegal</u> |
|-----------------------------|--------------------------|--------------------------|--------------------------|
| A) <u>Domestic violence</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B) <u>Sexual assault</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| C) <u>Stalking</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| D) <u>Spousal rape</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

7. If your tribal statutes include crimes of domestic violence, please answer all parts of this question to the best of your ability, based on all available information.

A) Of all the domestic violence complaints presented before the court, what percentage resulted in a conviction?

<u>For calendar year 1995</u>		<u>For calendar year 1996</u>	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

B) Of all the domestic violence complaints presented before the court, what percentage of offenders were fined?

<u>For calendar year 1995</u>		<u>For calendar year 1996</u>	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

C) Of all the domestic violence complaints presented before the court, what percentage of offenders received no punishment?

<u>For calendar year 1995</u>		<u>For calendar year 1996</u>	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

D) Of all the domestic violence complaints presented before the court, what percentage of offenders received only probation?

<u>For calendar year 1995</u>		<u>For calendar year 1996</u>	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

E) Of all the domestic violence complaints presented before the court, what percentage of offenders received a jail sentence?

<u>For calendar year 1995</u>		<u>For calendar year 1996</u>	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

F) Of all the domestic violence complaints presented before the court, what percentage of offenders received a prison sentence?

<u>For calendar year 1995</u>		<u>For calendar year 1996</u>	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

G) Of all the domestic violence complaints presented before the court, what percentage of offenders received a combination of jail/prison time and probation?

For calendar year 1995		For calendar year 1996 ¹	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

H) Of all the domestic violence complaints presented before the court, what percentage of offenders received a fine and incarceration?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

8. If your tribal statutes include crimes of sexual assault, please answer all parts of this question to the best of your ability, based on all available information.

A) Of all the sexual assault complaints presented before the court, what percentage resulted in a conviction?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

B) Of all the sexual assault complaints presented before the court, what percentage of offenders received no punishment?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

C) Of all the sexual assault complaints presented before the court, what percentage of offenders were fined?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

D) Of all the sexual assault complaints presented before the court, what percentage of offenders received only probation?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

E) Of all the *sexual assault* complaints presented before the court, what percentage of offenders received a jail sentence?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

F) Of all the *sexual assault* complaints presented before the court, what percentage of offenders received a prison sentence?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

G) Of all the *sexual assault* complaints presented before the court, what percentage of offenders received a combination of jail/prison time and probation?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

H) Of all the *sexual assault* complaints presented before the court, what percentage of offenders received a fine and incarceration?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

9. If your tribal statutes include *stalking* as a criminal or civil offense, please answer all parts of this question to the best of your ability, based on all available information.

A) Of all the *stalking* complaints presented before the court, what percentage resulted in a conviction?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

B) Of all the *stalking* complaints presented before the court, what percentage of offenders were fined?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

C) Of all the *stalking* complaints presented before the court, what percentage of offenders received no punishment?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

D) Of all the *stalking* complaints presented before the court, what percentage of offenders received only probation?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

E) Of all the *stalking* complaints presented before the court, what percentage of offenders received a jail sentence?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

F) Of all the *stalking* complaints presented before the court, what percentage of offenders received a prison sentence?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

G) Of all the *stalking* complaints presented before the court, what percentage of offenders received a combination of jail/prison time and probation?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

H) Of all the *stalking* complaints presented before the court, what percentage of offenders received a fine and incarceration?

For calendar year 1995		For calendar year 1996	
<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%	<input type="checkbox"/> 0-10%	<input type="checkbox"/> 56-70%
<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%	<input type="checkbox"/> 11-25%	<input type="checkbox"/> 71-85%
<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%	<input type="checkbox"/> 26-40%	<input type="checkbox"/> 86-99%
<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%	<input type="checkbox"/> 41-55%	<input type="checkbox"/> 100%

10. Do tribal statutes provide mandatory sentencing for crimes of domestic violence?

Before STOP grant		After STOP grant	
<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes

11. A) Do tribal court rules of evidence allow consideration of the victim's entire sexual history in the courtroom?
 No Yes

B) If yes, then must a victim's sexual history be proven relevant before the judge in chambers, before presenting it to the jury? No Yes

12. Are husbands exempted from charges of raping their wives? No Yes

13. Do tribal statutes require victims of sexual assault to present any empirical evidence, aside from their sworn testimony, to corroborate their account? No Yes

14. Do tribal statutes require victims of sexual assault to present evidence of forcible resistance to prove lack of consent? No Yes

15. Would the items listed, if shown at trial, affect a perpetrator's conviction for criminal sexual conduct?

A) The perpetrator's gender No Yes

B) The victim's gender No Yes

C) The act involves any bodily orifice of the victim No Yes

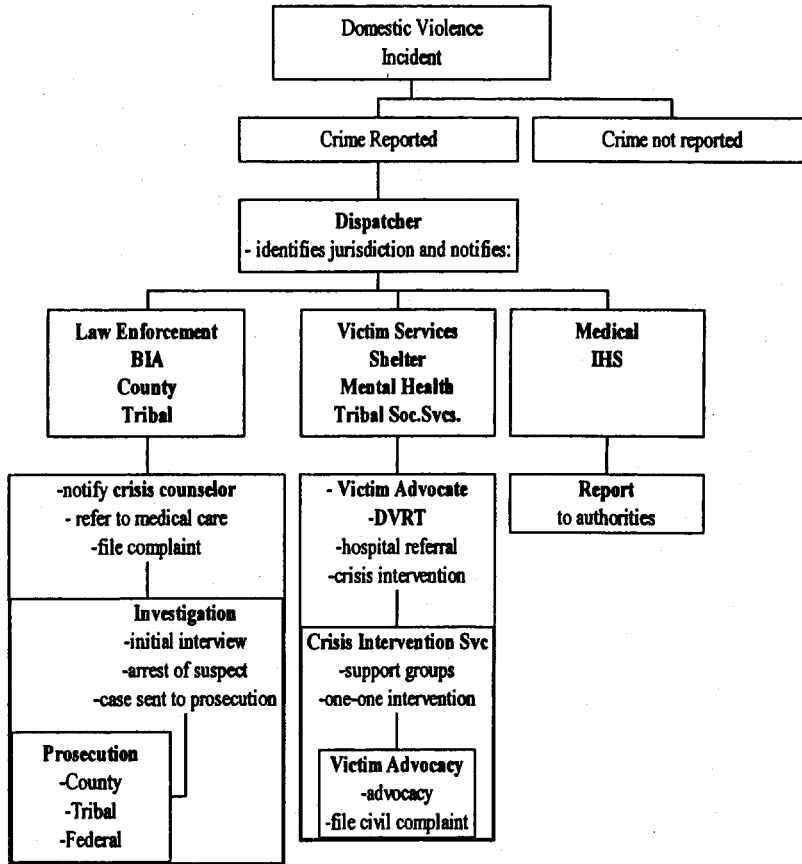
D) The act involves any body part of the assailant No Yes

E) The act involves the use of an object No Yes

F) The existence of an exacerbating factor (e.g., two assailants, a weapon, an unconscious victim, a mentally incompetent victim) automatically makes the crime "aggravated" No Yes

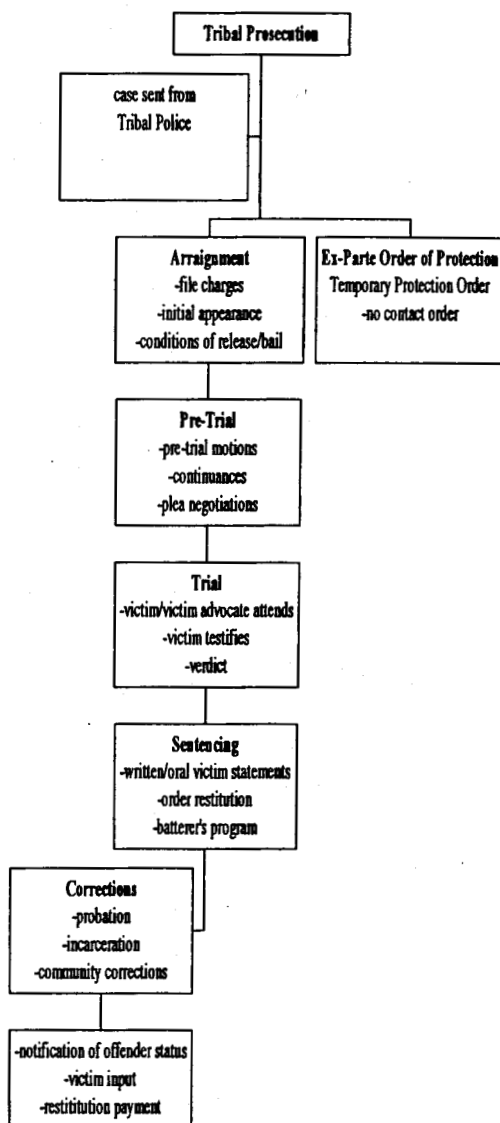
Appendix C

Flow Chart of Domestic Violence Call



Appendix D

Flow Chart of Tribal Prosecution



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