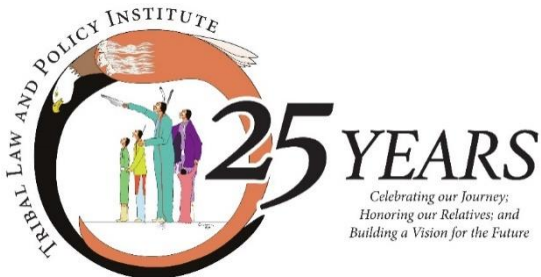


Overview of the Violence Against Women Act (VAWA) 2022: Successes and Challenges in the past 1.5 years

**Presented by the Tribal Law and Policy Institute
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Presenter



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Institute

Overview

1. Overview of Violence Against Women Act (VAWA) 2022
 - ◆ Why was VAWA 2022 Necessary
 - ◆ Covered Crimes
 - ◆ What Can Be Charged?
 - ◆ Who Can Be Charged?
 - ◆ Due Process Requirements
 - ◆ Additional Provisions
 - ◆ Inter-tribal Working Group Assistance, Guidance and Benefits To Exercising VAWA 2022
2. Question and Answer
3. Resources

2022 CONGRESSIONAL FINDINGS:

American Indians and Alaska Natives are:

- **2.5 times** as likely to experience violent crimes; and
- at **least 2 times** more likely to experience rape or sexual assault crimes;
- more than **4 in 5** American Indian and Alaska Native women have experienced violence in their lifetime;
- the vast majority of American Indian and Alaska Native victims of violence—**96 percent of women victims and 89 percent of male victims**—have experienced sexual violence by a non-Indian perpetrator at least once in their lifetime.

(Section 801, Title VIII Safety for Indian Women, H.R. 2471-848, March 2022)

Why was VAWA 2022 necessary?

It quickly became apparent that VAWA 2013 did not go far enough.

Tribal courts still had no criminal jurisdiction to:

- protect children who might be abused or victimized alongside their parent;
- prosecute offenders who assaulted tribal law enforcement or other justice officials;
- Provide justice to victims of sexual violence, stalking, or sex trafficking.

VAWA 2022 (H.R. 2471)

- Amended 25 USC 1304 (Indian Civil Rights Act). These amendments had an effective date of Oct. 1, 2022.
- Replaced the term “special domestic violence criminal jurisdiction (SDVCJ)” with “special tribal criminal jurisdiction (STCJ)” throughout the law.
- Introduced the term “covered crimes” to describe the conduct that can be prosecuted under tribal law in tribal courts.
- Deleted the non-Indian defendant ‘sufficient ties’ requirement in VAWA 2013.
- Changed WHAT can be charged in tribal court, and, in some instances, WHO can be charged in tribal court.

Tribal Jurisdiction over Non-Indians

VAWA 2013

Recognized a tribe's inherent criminal jurisdiction over **non-Indians** for the crimes of:

- Domestic Violence
- Dating Violence
- Criminal Violations of a Qualifying Protection Order.

- ✓ The **crime** must occur **within** the tribe's **Indian country**;
- ✓ The **victim** must be an Indian; and
- ✓ The defendant must have **sufficient ties** to the community.

Requires tribes to provide certain **due process** protections for non-Indian defendants.

- Indigent defense counsel
- Non-Indians in jury pools, etc.

VAWA 2022

Added recognition of a tribe's inherent criminal jurisdiction over **non-Indians** by adding additional categories including:

- Child violence
- Sexual violence
- Stalking
- Sex trafficking
- Assaults of tribal justice personnel
- Obstruction of justice

- ✓ The **crime** must still occur **within** the tribe's **Indian country**;
- ✓ The **victim** must be an Indian for most but not all crimes; and
- ✓ The defendant's **ties** to the community are no longer a condition of tribal jurisdiction.

Adds a requirement that tribes must provide notice **in writing** of certain federal rights.

Changes to WHAT can be charged in Tribal Court

Specifically, the VAWA 2022 amendments to 25 USC 1304:

add categories of conduct that can be prosecuted in tribal court:

- *domestic violence (2013)(amended 2022)*
- *dating violence (2013) (amended 2022)*
- *protection order violations (2013)(amended 2022)*
- sexual violence (2022)
- stalking (2022)
- sex trafficking (2022)
- child violence (2022)
- obstruction of justice (2022)
- assaults against justice personnel (2022)

Collectively these are referred to as “covered crimes.”

Changes to WHAT can be charged in Tribal Court (cont.)

The VAWA 2022 amendments to 25 USC 1304 also amend the definitions of “domestic violence” and “dating violence” to give additional deference to how these terms may be defined in tribal law.

These changes remove the “violence committed” language that had left tribes unable to prosecute domestic violence crimes that were not sufficiently “violent.”

VAWA 2022: Child Violence

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

"Child" means someone who has not reached the age of either:

- 1) 18 or
- 2) an age lower than 18 if that is what is specified by the Tribe (except in the case of sexual abuse, when it must be 18).

VAWA 2022: Domestic Violence

(a) (7) Domestic Violence.—The term ‘domestic violence’ means any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that is committed by—

(A) a current or former spouse or intimate partner of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; or

(D) a person similarly situated to a spouse of the victim under the domestic- or family-violence laws of an Indian tribe that has jurisdiction over the Indian country where the violation occurs.

VAWA 2022: Dating Violence

Dating Violence.—The term ‘dating violence’ means any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

VAWA 2022: Violation of a Protection Order

VIOLATION OF A PROTECTION ORDER.— The term ‘violation of a protection order’ means an act that—

(A) occurs in the Indian country of a participating tribe; and

(B) violates a provision of a protection order that—

(i) prohibits or provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person;

(ii) was issued against the defendant;

(iii) is enforceable by the participating tribe; and

(iv) is consistent with section 2265(b) of title 18, United States Code.

VAWA 2022: Sexual Violence

SEXUAL VIOLENCE.—The term ‘sexual violence’ means any nonconsensual sexual act or contact proscribed by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs, including in any case in which the victim lacks the capacity to consent to the act.

VAWA 2022: Stalking

STALKING.— The term “stalking” means engaging in a course of conduct directed at a specific person proscribed by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that would cause a reasonable person—

- (A) to fear for the person’s safety or the safety of others; or
- (B) to suffer substantial emotional distress.

VAWA 2022: Sex Trafficking

The term 'sex trafficking' means conduct within the meaning of section 1591(a) of title 18, which is the federal sex trafficking law.

Whoever knowingly:

- ▶ Recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person, or
- ▶ Receives something of value (someone in the trafficking venture)(money, food, a beer, a phone, a hotel/motel room, anything of value), and
- ▶ Causes the person to engage in a commercial sex act (any sex act, on account of which anything of value is given to or received by any person, including the victim).
- ▶ Generally, requires fraud, force, or coercion for adult victims.

No requirement for fraud, force or coercion for minors.

VAWA 2022: Assault of Tribal Justice Personnel

ASSAULT OF TRIBAL JUSTICE PERSONNEL. The term ‘assault’ of Tribal justice personnel means any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that involves the use, attempted use, or threatened use of physical force against an individual authorized to act for, or on behalf of, that Indian tribe or serving that Indian tribe during, or because of, the performance of duties of that individual in

- (A) preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a covered crime;
- (B) adjudicating, participating in the adjudication of, or supporting the adjudication of a covered crime;
- (C) detaining, providing supervision for, or providing services for persons charged with a covered crime; or
- (D) incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry services for persons convicted of a covered crime.

VAWA 2022: Obstruction of Justice

The term “obstruction of justice” means any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that involves interfering with the administration or due process of the laws of the Indian tribe, including any Tribal criminal proceeding or investigation of a crime.

Changes to WHO can be charged in Tribal Court

The VAWA 2022 amendments to 25 USC 1304:

- clarify that for cases involving obstruction of justice or assaults against tribal justice personnel by a non-Indian, the tribe has jurisdiction even if the victim is also non-Indian;
- remove the existing requirement under VAWA 2013 that limits tribal jurisdiction to those non-Indians who live or work in the Indian country of the tribe or are in a qualifying relationship with a member of the tribe or non-member Indian resident (often referred to as the “sufficient ties” provision);

Hypothetical cases tribes could now prosecute:

- An adult non-Indian hits his nephew who is a tribal member.
- A non-Indian teacher sexually abuses his 13-year-old student, who is a tribal member.
- A drunk non-Indian gropes a casino employee who is a tribal member and pushes the responding officer.
- A non-Indian who has been banished from the reservation flees law enforcement when they encounter him on the reservation.

What 25 USC 1304 Does NOT Cover

- cases where the Victim and Defendant are **both non-Indian** except in cases of “assault of tribal justice personnel” and “obstruction of justice”.
- crime that **took place outside the Indian country** of the participating tribe.

25 USC 1304 is voluntary for the tribe. It also does NOT alter existing state or federal jurisdiction.

VAWA Special Tribal Criminal Jurisdiction Due Process Requirements

- Tribal court ensures “all applicable rights” under the Indian Civil Rights Act – 25 U.S.C. 1302 (a).
- If any term of imprisonment may be imposed, all rights described in Tribal Law & Order Act (TLOA) for enhanced sentencing – 25 U.S.C. 1302(c).
- Additional rights required by VAWA 2013 and VAWA 2022.

ICRA Due Process Requirements (All defendants)

- No unreasonable searches and seizures
- No double jeopardy
- No self-incrimination
- Right of confrontation
- No excessive bail or fines or cruel and unusual punishments
- Due process and equal protection
- Right to a jury trial
- Right to a speedy and public trial

TLOA Due Process Requirements

(All VAWA defendants facing incarceration)

- Effective assistance of counsel equal to what would be available in federal or state court;
- Free, appointed, licensed attorneys for indigent defendants;
- Tribal judges with sufficient legal training who are licensed to practice law in any jurisdiction in the United States;
- Publicly available tribal criminal laws and rules of evidence and criminal procedure; and
- Maintain a record of criminal proceeding, including audio or video recording of trial proceedings

VAWA Due Process Requirements (All VAWA defendants)

- Tribal court must provide the right to a **trial by an impartial jury**.
 - Drawn from sources that reflect a **fair cross-section** of the community, and
 - Does not systematically exclude any distinctive group, including non-Indians.
- Tribal court must ensure defendants are **timely notified in writing** of federal habeas rights.

Changes to Notice Requirement

VAWA 2013

25 USC 1304(e)(3)

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

VAWA 2022

25 USC 1304 (g)

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

Bureau of Prisons (BOP) Tribal Prisoner Program

VAWA 2022 also permanently establishes the BOP program where defendants sentenced in tribal court for certain violent crimes can be sent to BOP facilities.

- Lowered the sentence requirement from **2 years to 1 year**
- Prisoner cap stays at **100 people**
- BOP is currently accepting prisoners under this program

Alaska Pilot Program

VAWA 2022: Sec. 811 - 813. Alaska Tribal Public Safety Empowerment

- Recognizes the inherent authority of the tribes over all Indians present in the village.
- Includes tribal civil jurisdiction to enforce protective orders against any person, including through exclusion.
- Special tribal criminal jurisdiction over a defendant for a “covered crime.”
- **AG can designate not more than 5 participating villages per year:**
 - AG will establish a process to designate villages
 - Allows for intertribal participation (2 or more villages) that only count for 1 spot
 - 30 tribes is the max number, but AG can add more pilot tribes with notice to congress and the public.
 - Addresses housing for village inmates: tribal correctional facility, federal facility under BOP state or local gov facility.
- Establishes the Alaska Public Safety Advisory Committee.
- Participating tribes in Alaska can access the same funding sources.

Funding

VAWA 2022:

- 1. Continued OVW's Tribal Jurisdiction Program AND**
- 2. Created a new Tribal Reimbursement Program**

Funding

Jurisdiction Grant Program

- Competitive grant application
- Multi-year award
- Detailed budget developed in advance
- Can include a planning period

Reimbursement Program

(implementing tribes only)

- Opt in each year to have access
- Useful for unexpected costs
- Fewer application requirements
- Reconcile costs at the end of the year

Inter-Tribal Technical Assistance Working Group

Peer-to-peer exchange of views, information, and advice about how tribes may best exercise STCJ and promote safety within their communities.

All interested tribes are welcome to join. Email: TribalVAWA@TLPI.org



- Formed in 2013
- Approximately 70 tribes
- Bi-annual meetings

Inter-tribal Working Group Assistance, Guidance and Benefits To Exercising VAWA 2022

- Cross section requirement for jury pool (tribal community definition/parameters)
- Stalking bench card to identify and safety reminders
- Lethality and danger assessments (will judge see the assessments- is there a way?)
- Revisiting protection order drafting to trigger federal firearms provisions after Rahimi
- Domestic Violence Courts and Dockets are being implemented

Inter-tribal Working Group Assistance, Guidance and Benefits To Exercising VAWA 2022

- Retaining, mentoring and training new attorneys and law enforcement on VAWA 2022
- Supervising non-Indian offenders and trauma-informed approach to probation and re-entry
- Alaska Tribes- educating tribal communities/leaders on VAWA 2022, code drafting
- Alaska ITWG is up and running and is planning 2nd meeting. First meeting was a success and many tribes from many regions attend to obtain info on VAWA 2022 for Alaska

Resources

The Tribal Law and Policy Institute is excited to announce its new website: www.TribalVAWA.org

This website was developed as a resource for the Violence Against Women Act (VAWA) Special Tribal Criminal Jurisdiction (STCJ). It contains an overview of the Violence against Women Reauthorization Act of 2022: Tribal Criminal Jurisdictions over Non-Indians, categories of criminal conduct under VAWA 2022, Frequently Asked Questions, news updates, webinars and resources, events, funding information, and information for the Intertribal Technical Assistance Working Group (ITWG).



Welcome to TribalVAWA.org

A website providing resources for Tribes concerning Tribal Criminal Jurisdiction over Non-Indians under the 2022 Reauthorization of the Violence Against Women Act (VAWA 2022).

For the first time since 1978, the Supreme Court decision in [Oliphant v. Suquamish](#), Indian Tribal governments are prosecuting non-Indians who commit certain crimes on their lands. This website provides comprehensive information related to the prosecution of non-Indians in Tribal courts in compliance with the Violence Against Women Act (VAWA). This site includes background information about [VAWA's requirements and limitations](#), training and technical assistance materials, information on the [crimes that can be prosecuted](#), and the [due process protections](#) that must be provided.

Overview

Tribal Criminal Jurisdiction Over Non-Indians: Violence Against Women Reauthorization Act of 2022

HOME OVERVIEW COVERED CRIMES IMPLEMENTING TRIBES ITWG RESOURCES EVENTS FUNDING

Covered Crimes

Defendants Due Process Rights

VAWA Frequently Asked Questions

Updates

Section of the Violence Against Women Act 2022 (VAWA), the [Criminal Conduct Covered](#), the [Implementation Chart](#) shows Tribes that are currently implementing VAWA 2013, VAWA 2022, and the [Mandatory Tribal Justice Program](#). Many of these Tribes are also currently accessing Tribal Jurisdiction [federal funding](#) through the [Office on Violence Against Women \(OVW\)](#).

What is Special Tribal Criminal Jurisdiction (STCJ)?

The term "Special Tribal Criminal Jurisdiction" comes from the [Violence Against Women Act of 2022 \(VAWA 2022\)](#) and refers to the exercise of criminal jurisdiction by tribal governments over non-Indians who commit certain crimes on Tribal lands.

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) created a framework for Indian Tribes to prosecute non-Indians for domestic and dating violence or protection order violations on Tribal lands. This was known as "Special Domestic Violence Criminal Jurisdiction (SDVCJ)." VAWA 2022 amended these provisions to address additional crimes. Both VAWA 2013 and VAWA 2022 amended the Indian Civil Rights Act, and the provisions addressing Tribal jurisdiction over non-Indians are codified at [25 USC 1301-1304](#).

Many of the Tribes who are exercising criminal jurisdiction over non-Indians have raised concerns about the use of the word "special" to refer to their inherent authority on their lands. We have included an explanation of the term "Special Tribal Criminal Jurisdiction" because it is used in the federal statute. Whenever possible, however, we refer simply to Tribal jurisdiction over non-Indians.

Resources:

- Violence Against Women Act Reauthorization Act of 2022, [Section by Section Summary - Title VIII - Safety for Indian](#)



Covered Crimes

Tribal Criminal Jurisdiction Over Non-Indians: Violence Against Women Reauthorization Act of 2022

HOME OVERVIEW COVERED CRIMES IMPLEMENTING TRIBES ITWG RESOURCES EVENTS FUNDING

Covered

VAWA 2022 by [order violation](#) of conduct that can be prosecuted by Tribes against non-Indians including [Tribal justice](#) VAWA 2022, 2 of conduct:



These categories of conduct are all defined by federal law but defer to "the criminal law of the Indian tribe that has jurisdiction over the conduct, except where the statute expressly provides for the application of federal law."



Implementing Tribes

ITWG

Tribal Criminal Jurisdiction Over Non-Indians: Violence Against Women Reauthorization Act of 2022

Tribal Criminal Jurisdiction Over Non-Indians: Violence Against Women Reauthorization Act of 2022



HOME OVERVIEW COVERED CRIMES IMPLEMENTING TRIBES ITWG RESOURCES EVENTS FUNDING

HOME OVERVIEW COVERED CRIMES IMPLEMENTING TRIBES ITWG RESOURCES EVENTS FUNDING

Implementing Tribes

- Implementing Tribes Map
- Implementing Tribes Chart
- Implementing Tribes Resources

- ITWG Frequently Asked Questions
- Upcoming ITWG Meetings
- Prior ITWG Meetings
- Request Training/Technical Assistance
- Request to Join ITWG
- ITWG Reports

This is a map of Tribes who have implemented VAWA 2022 jurisdiction over non-Indians - some have implemented Violence Against Women Act (VAWA) 2013 and others have implemented the expanded VAWA 2022 jurisdiction. A number of the tribes are part of the [Intertribal Technical Assistance Working Group \(ITWG\)](#) which is a voluntary working group of Tribal representatives who may exchange views, information, and advice, peer-to-peer, about how Tribes may best implement VAWA 2022 Special Tribal Criminal Jurisdiction (STCJ). This includes discussions on how to combat [domestic violence](#), [dating violence](#), [sexual violence](#), [obstruction of justice](#), and [assaults against tribal justice personnel](#). The ITWG also addresses the need to recognize [victims' rights and safety needs](#), and safeguard [defendants' rights](#).

Intertribal Technical Assistance Working Group

The Intertribal Technical Assistance Working Group (ITWG) is a voluntary working group of Tribal representatives who may exchange views, information, and advice, peer-to-peer, about how Tribes may best implement VAWA 2022 Special Tribal Criminal Jurisdiction (STCJ). This includes discussions on how to combat [domestic violence](#), [dating violence](#), [sexual violence](#), [obstruction of justice](#), and [assaults against tribal justice personnel](#). The ITWG also addresses the need to recognize [victims' rights and safety needs](#), and safeguard [defendants' rights](#).

The ITWG promotes a peer-to-peer technical assistance exchange that covers a broad set of issues, including drafting stronger Tribal codes addressing [domestic violence](#), [dating violence](#), [sexual violence](#), [violations of protection orders](#), [stalking](#), [sex trafficking](#), [child violence](#), [obstruction of justice](#), and [assaults against Tribal justice personnel](#). In addition, peer discussions include [victim-centered protocols and policies](#), improving [public defender systems](#), analyzing [detention and correctional options for non-Indians](#), designing more broadly representative [jury pools](#) and strategies for increasing juror compliance with a jury summons.

The ITWG has proven to be a productive and useful mechanism for Tribes to share information and best practices among themselves. Tribes meet to discuss challenges, ask questions, and jointly strategize about how to overcome obstacles. With the logistical support and substantive expertise of a group of DOJ-funded technical assistance providers, the Tribes participating in the ITWG have tackled many difficult questions and have developed a collection of resources that make it easier for Tribes preparing to implement STCJ. The ITWG continues to serve as an important resource for the [implementing Tribes](#) as they encounter new questions and challenges. Tribes consistently say that the ITWG is the single most helpful thing for them as they implement and exercise STCJ.

One tribe that regularly attends the ITWG meetings described their experience as follows:

IMPLEMENTING TRIBES

Tribes Exercising VAWA 2022 Criminal Jurisdiction over Non-Indians
As of January 2023

1. Alabama-Coushatta Tribe of Texas
2. Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation
3. Cherokee Nation
4. Chickasaw Nation
5. Chitimacha Tribe of Louisiana
6. Confederated Tribes of the Chehalis Reservation
7. Confederated Tribes of the Umatilla Indian Reservation
8. Eastern Band of Cherokee Indians
9. Gila River Indian Community of the Gila River Indian Reservation
10. Grand Traverse Band of Ottawa and Chippewa Indians
11. Kickapoo Tribe of Oklahoma
12. Little Traverse Bay Bands of Odawa Indians
13. Lower Elwha Tribal Community



Resources

Tribal Criminal Jurisdiction Over Non-Indians: Violence Against Women Reauthorization Act of 2022

HOME OVERVIEW COVERED CRIMES IMPLEMENTING TRIBES ITWG RESOURCES EVENTS FUNDING

Resources for Tribes Considering Implementing Criminal Jurisdiction over Non-Indians

General VAWA Resources	Code Development	Judicial and Defense Counsel
Defendants' Rights	Jury	Habeas Notice
Judicial and Defense Counsel	Law Enforcement	Victims' Rights & Safety

- Code Development
- General VAWA Resources
- Habeas Corpus
- Judicial and Defense Counsel
- Jury Requirements
- Law Enforcement
- Rights of Defendants
- Victims' Rights and Safety

Upcoming Events

Tribal Criminal Jurisdiction Over Non-Indians: Violence Against Women Reauthorization Act of 2022

HOME OVERVIEW COVERED CRIMES IMPLEMENTING TRIBES ITWG RESOURCES EVENTS FUNDING

Upcoming Events

 **5th Annual Tribal Governments Program Summit: Stronger Together, Healing Together**
September 26-28, 2023 | Pre-Summit Workshops on September 25, 2023 | Jacksonville, FL

Registration: [5th Annual Tribal Governments Program Summit Registration \(whoava.com\)](https://www.whoava.com)

Hotel Reservations: Hyatt Regency Jacksonville Riverfront | To make your hotel reservations within Red Wind's room block, please click here: <https://www.hyatt.com/en-US/group-booking/JAXR/G-WIND>

Phone: (877) 803-7534 | Code G-WIND

The 5th Annual Tribal Governments Program Summit brings our Tribal communities together in-person, to dig deep into topics relevant to our programs and local responses, exploring topics that highlight some of the work of our peers from other Tribes and national experts, and emerging issues. The Annual Tribal Summit has been a place for those Tribal communities working to address domestic violence, sexual assault, stalking, dating violence, and sex trafficking to come together and learn from each other. We have a lot of work to do building and expanding responses. We cannot do it alone. Historically as well as in present times, we carry strong beliefs about how we teach each other and how we learn from each other. As we heal from the past two years of loss and trauma, from the impacts of violence our communities are living with, we collectively are healing our communities. Pre-Summit Workshops provide an opportunity for Tribes to engage in learning that allows for more in-depth opportunities on important topics for Tribal Government grantees.

Tribal Summit is an important venue for providing comprehensive access to information and resources while

Funding

Tribal Criminal Jurisdiction Over Non-Indians: Violence Against Women Reauthorization Act of 2022

HOME OVERVIEW COVERED CRIMES IMPLEMENTING TRIBES ITWG RESOURCES EVENTS **FUNDING**



Federal Funding for Special Tribal Criminal Jurisdiction

✦ OVW Fiscal Year 2023 Special Tribal Criminal Jurisdiction Grant Program

While the deadline for this solicitations has passed, we encourage everyone to review the Request for Proposals (RFP) even though it is no longer open because most RFP's do not change significantly from one year to the next. It is an excellent resource for future planning and development.

This program is authorized by the Indian Civil Rights Act of 1968 (codified as amended at 25 U.S.C. § 1304(h)(2)). The [OVW Special Tribal Criminal Jurisdiction Grant Program \(Tribal Jurisdiction Program\)](#) (CFDA# 16.025) supports tribes in their efforts exercise special Tribal criminal jurisdiction (STCJ) over non-Indians who commit “covered crimes” within the Tribe’s jurisdictional boundaries and provides technical assistance for planning and implementing changes in their criminal justice systems necessary to exercise the jurisdiction. “Covered crimes” are limited to assault of Tribal justice personnel; child violence; dating violence; domestic violence; obstruction of justice; sexual violence; sex trafficking; stalking; and violation of a protection order. Grant recipients are committed to exercising the jurisdiction to ensure that victims find safety and justice and that non-Indians who commit covered crimes within their jurisdiction are held accountable. For additional information about this program and related performance measures, including how awards contribute to the achievement of program goals and objectives, see:

- OVW grant program information: [OVW Grants and Programs Webpage](#).
- Program performance measures under the Measuring Effectiveness Initiative: [VAWA Measuring Effectiveness Initiative webpage](#).
- Program-specific sections in OVW's [most recent report to Congress](#) on the effectiveness of VAWA grant programs.

Tribal Jurisdiction Grant Program
Alaska Native Tribes Special Initiative
STCJ Reimbursement Program
Tribal Access Program (TAP)
Funding by Agency



Tribal Criminal Jurisdiction over Non-Indians: Violence Against Women Act Reauthorization of 2022

Tribal Criminal Jurisdiction over Non-Indians: Violence Against Women Act Reauthorization of 2022, Tribal Law and Policy Institute's Enhanced Tribal Authority Series

This publication provides general guidance to assist tribes in making an informed decision concerning the possible exercise of tribal criminal jurisdiction over non-Indians. Considerations for exercising criminal jurisdiction over Non-Indians are examined including both the benefits and challenges of exercising criminal jurisdiction over non-Indians. Information is provided concerning the experiences of the implementing Tribes and the role of the Intertribal Technical-Assistance Working Group (ITWG). Extensive information is provided concerning resources available to Tribes interested in exercising this jurisdiction. This publication is part of a two-part series on enhanced tribal authority, the other publication discusses Tribal Law and Order Act enhanced sentencing authority.



Tribal Criminal Jurisdiction over Non-Indians
Violence Against Women Act Reauthorization of 2022
Tribal Law and Policy Institute's Enhanced Tribal Authority Series



Virginia Davis, Chia Halpern Beetso, Jerry Gardner,
Kelly Stoner, and Esther Labrado
www.Home.TLPI.org
www.WalkingOnCommonGround.org
Forthcoming: www.TribalVAWA.org

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VAWA Special Tribal Criminal Jurisdiction Resources



Tribal Provisions of Violence Against Women Act (VAWA) 2022



On March 15, 2022, President Biden signed the Violence Against Women Act Reauthorization bill (VAWA 2022) as a part of the Omnibus funding bill (H.R. 2471), the Senate Committee on Indian Affairs has provided an overview of the [VAWA 2022](#). The [tribal provisions of VAWA 2022](#) are included in Title VIII of Division W of the overall bill. VAWA 2022 does the following:

- Builds on VAWA 2013's tribal jurisdiction provision (covering domestic violence, dating violence, and protection order violations) by additional categories of criminal conduct that can be prosecuted by tribes against non-Indians (Special Tribal Criminal Jurisdiction) - sexual violence, stalking, sex trafficking, child violence, obstruction of justice, and assaults against justice personnel.
- Replaces the term "special domestic violence criminal jurisdiction (SDVCJ)" with "special tribal criminal jurisdiction (STCJ)" throughout the law.
- Removes the "sufficient ties" restriction that currently limits exercise of SDVCJ to only those non-Indian individuals who reside or are employed in Indian country or is the spouse, intimate partner, or dating partner of a member of an Indian Tribe or resident of Indian country.
- Establishes a pilot program for Indian Tribes in Alaska to exercise Special Tribal Criminal Jurisdiction within Alaska Native villages.
- Clarifies that the tribal jurisdiction restored through VAWA 2013/2022 applies to Indian Tribes in Maine.
- Provides formal authorization for the Tribal Access Program (TAP); and
- Reestablishes the U.S. Bureau of Prisons (BOP) Tribal Prisoner Program first authorized as a pilot in the 2010 Tribal Law and Order Act.

Please note - the enhanced "special tribal criminal jurisdiction" provisions will not take effect until **October 01, 2022**. The current "special domestic violence criminal jurisdiction" will apply until then.

Additional Tribal VAWA 2022 Resources:

1. [Indian Civil Rights Act, 25 U.S.C. §§ 1304, as amended by VAWA 2022 Redline Version](#)
2. [Indian Civil Rights Act, 25 U.S.C. §§ 1304, as amended by VAWA 2022](#)
3. [Inter-Tribal Working Group Summary of VAWA 2022 Tribal Provisions](#)
4. [VAWA 2022 Title VIII—Safety for Indian Women](#)
5. [Section by Section Summary of VAWA 2022 Tribal Provisions](#) by the Senate Committee on Indian Affairs
6. [Celebrating VAWA 2022](#) (National Indigenous Women's Resource Center)

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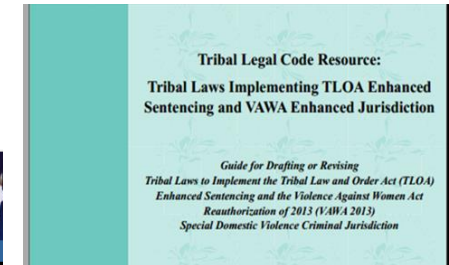


QUICK LINKS

- [Tribal Law and Policy Institute](#)
- [Institute Publications](#)
- [Institute Webinars](#)
- [Contact the Institute](#)
- [Institute Philosophies/Approach to Training](#)
- [About the Clearinghouse](#)
- [Tribal Court Mentors Circle](#)

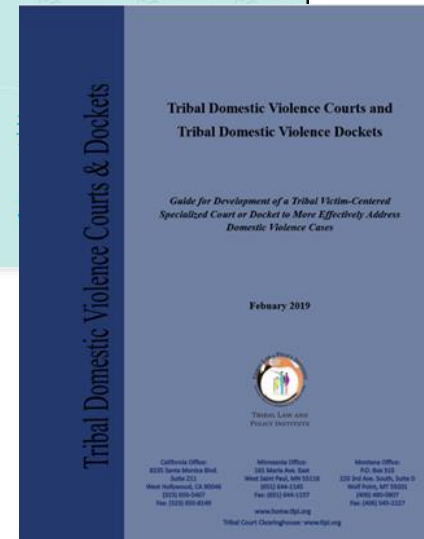
Federal Agencies

- [Administration for Children and Families \(ACF\)](#)
- [Administration for Native Americans \(ANA\)](#)
- [American Indian Environmental Office](#)
- [BIA Office of Justice Services](#)
- [Bureau of Indian Affairs \(BIA\)](#)
- [Bureau of Indian Education](#)
- [Bureau of Justice Assistance \(BJA\)](#)
- [HUD's Office of Native American Programs \(ONAP\)](#)
- [Indian Law and Order Commission \(ILOC\)](#)
- [Office for Victims of Crime](#)
- [Office of Community Oriented Policing Services \(COPS\)](#)
- [Office of Juvenile Justice and Delinquency Prevention \(OJJDP\)](#)
- [Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking \(SMART Office\)](#)
- [Office of Tribal Justice \(OTJ\)](#)
- [Office on Violence Against Women](#)
- [Substance Abuse and Mental Health Services Administration \(SAMHSA\)](#)
- [Tribal Justice and Safety in Indian Country](#)



Tribal Legal Code Resource: Tribal Laws Implementing TLOA Enhanced Sentencing and VAWA Enhanced Jurisdiction

*Guide for Drafting or Revising
Tribal Laws to Implement the Tribal Law and Order Act (TLOA)
Enhanced Sentencing and the Violence Against Women Act
Reauthorization of 2013 (VAWA 2013)
Special Domestic Violence Criminal Jurisdiction*



Tribal Domestic Violence Courts and Tribal Domestic Violence Dockets

*Guide for Development of a Tribal Victim-Centered
Specialized Court or Docket to More Effectively Address
Domestic Violence Cases*

February 2019



California Office
1125 Santa Monica Blvd.
Suite 201
West Hollywood, CA 90068
Tel: (310) 460-0407
Fax: (310) 460-0410

Minnesota Office
100 Marsha Ave. Suite
West Saint Paul, MN 55118
Tel: (612) 444-1100
Fax: (612) 444-1177

Washington Office
1000 14th St.
220 2nd Ave. South, Suite 5
Wash. State, WA 98501
Tel: (509) 485-0817
Fax: (509) 485-0227

Tribal Law and Policy Institute
Tribal Court Clearinghouse: www.tcli.org

TLPI Resources: <http://www.tribal-institute.org/lists/VAWA2022.htm>

TLPI website: www.TribalVAWA.org

Free One-on-One Technical Assistance

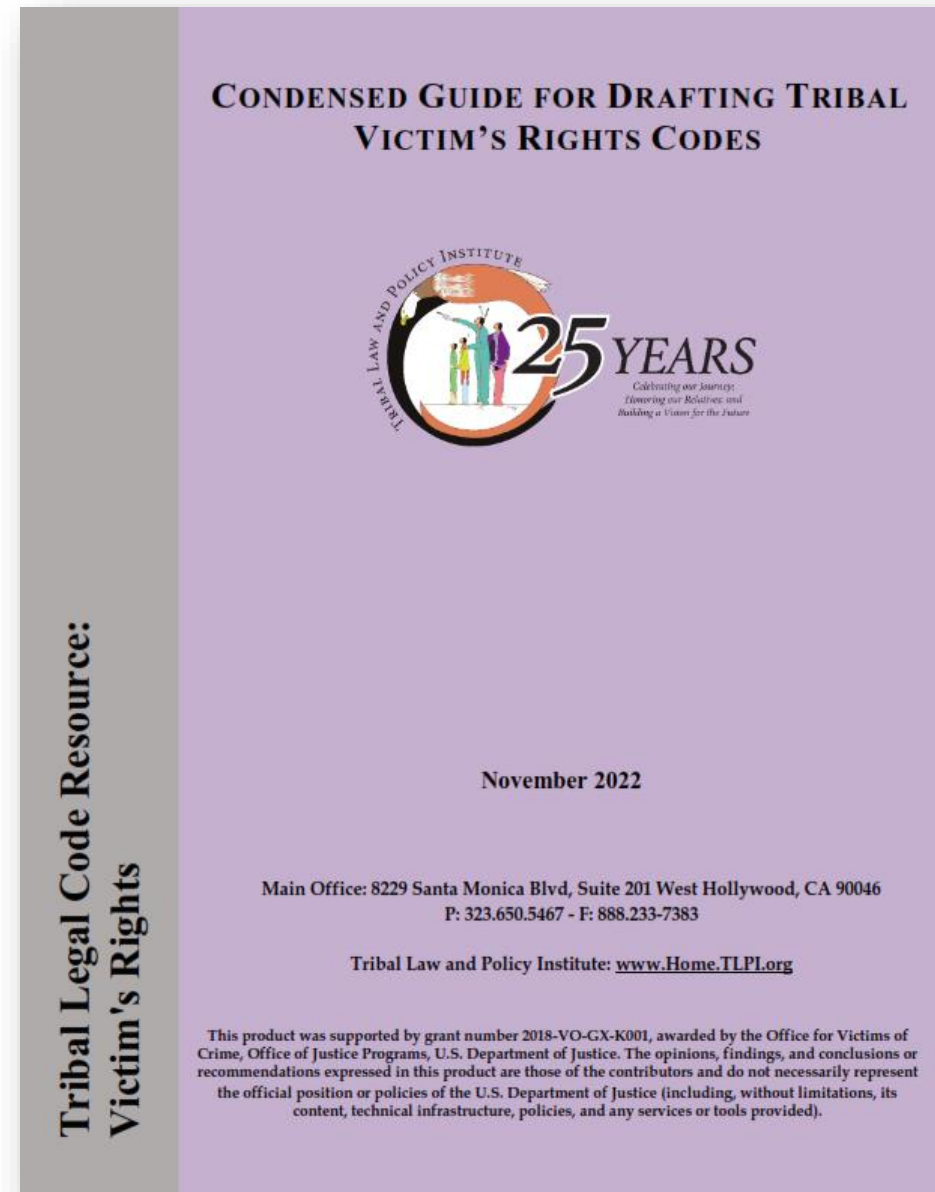
- **Review draft tribal codes**, policies, or procedures to implement the law.
- Help address specific **questions about VAWA's jury requirements** and the logistics of creating a jury pool system that complies with VAWA.
- Help address **questions about resources for implementation**.
- Help address issues that may come up with the **investigation or prosecution of individual cases**.

FREE Tribal Code Review

- The Tribal Law and Policy Institute offers Tribal code review at *no cost*.
- Many Tribes have asked us to review their domestic violence and full Tribal codes to ensure they are prepared to exercise VAWA 2013 Special Domestic Violence Criminal Jurisdiction (SDVCJ) and VAWA 2022 Special Tribal Criminal Jurisdiction (STCJ).
- We provide feedback and suggestions on the Tribal Code and can meet via Zoom to discuss.
- Contact Chia at chia@tlpi.org for more information.

Tribal Legal Code Resource: Victim's Rights, Condensed Guide For Drafting Tribal Victim's Rights Codes

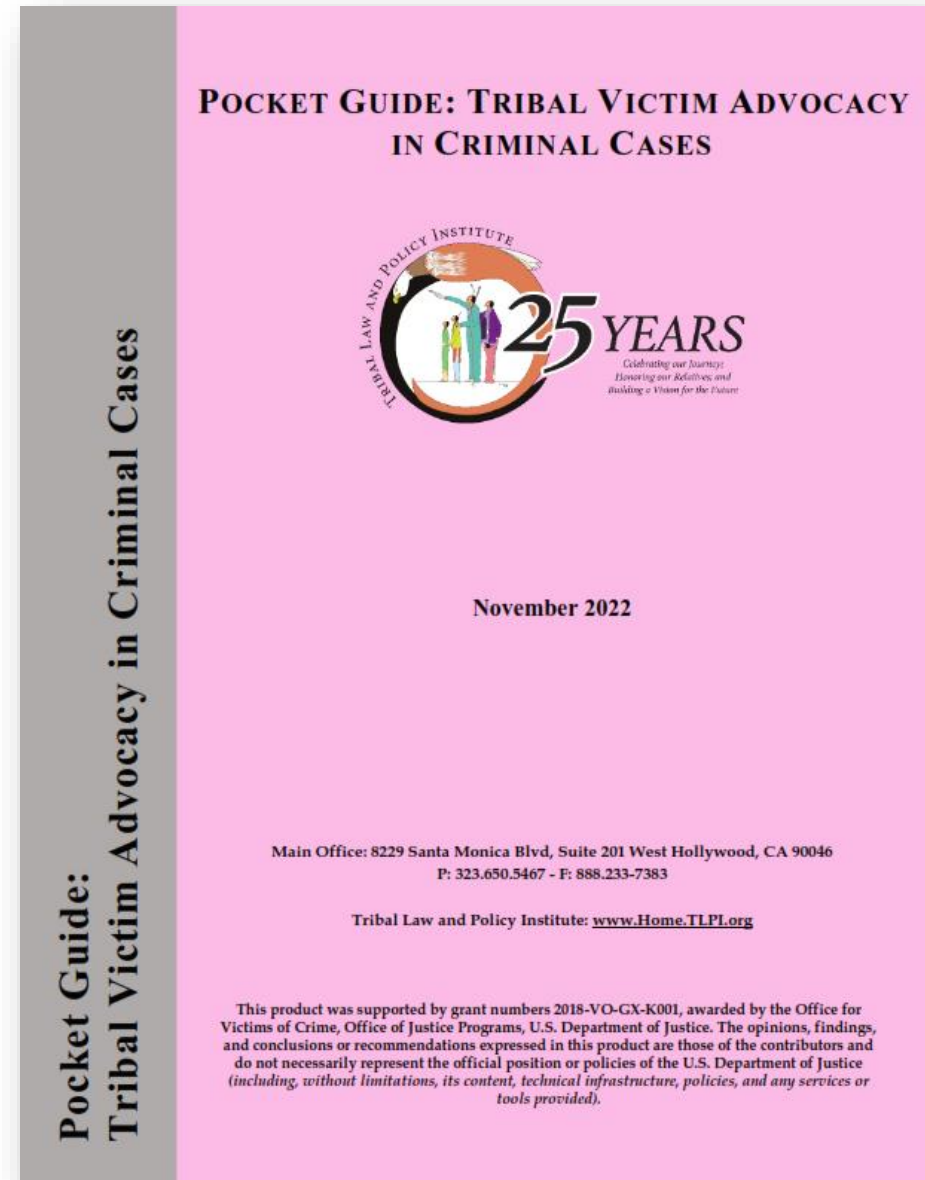
Tribal Legal Code Resource: Victim's Rights, Condensed Guide for Drafting Tribal Victim's Rights Codes is designed to assist tribal governments with the development of victim right's codes. This resource was written with the belief that tribal governments have the ability to draft victim right's laws centered on their tribal beliefs that convey compassion for those harmed by crime and the importance of protecting the rights of victims, and to prevent revictimization.



Tribal Legal Code Resource:
Victim's Rights

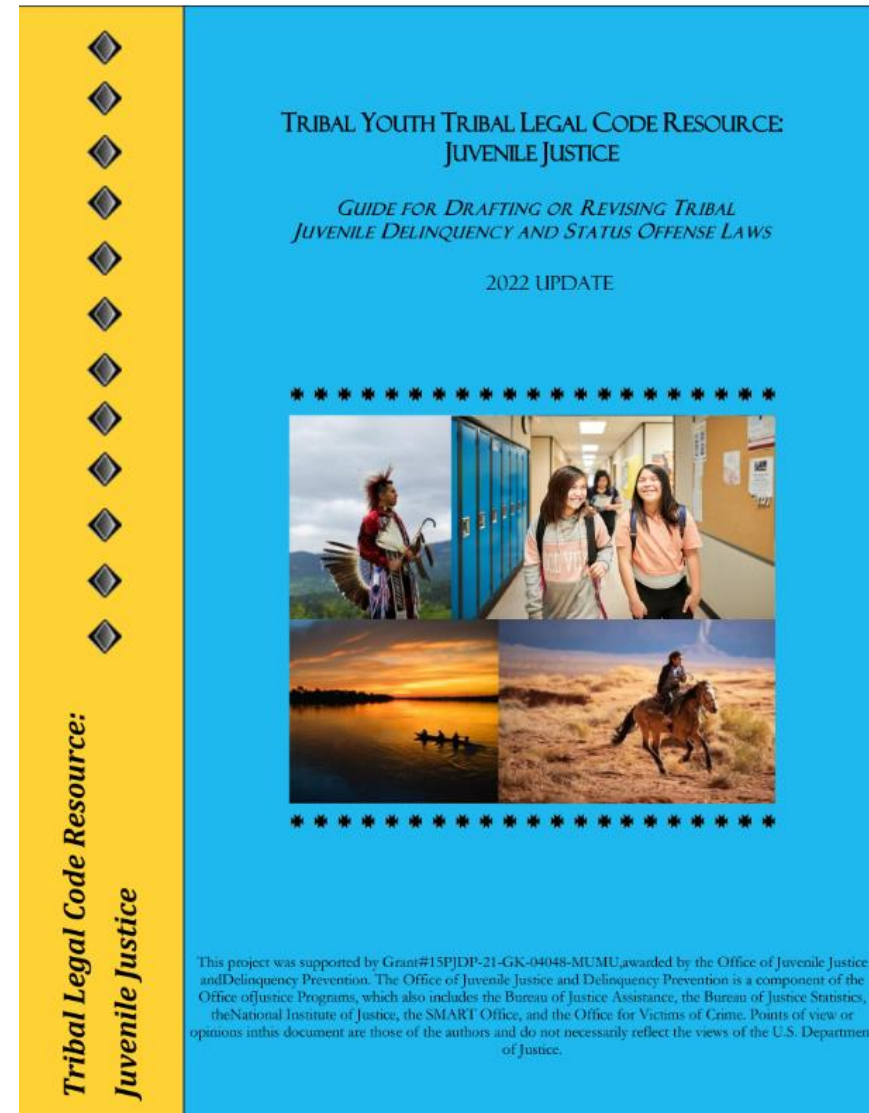
Pocket Guide: Tribal Victim Advocacy in Criminal Cases

Pocket Guide: Tribal Victim Advocacy in Criminal Cases is designed particularly for community-based advocates as a quick reference guide to better assist victims as they navigate the criminal legal process. This Pocket Guide contains things such as a quick review of the general criminal legal process and victim rights with an emphasis on safety planning at every juncture. While this Pocket Guide is designed primarily for community-based advocates, it may be useful for other professionals who work with victims.



Tribal Legal Code Resource: Guide for Drafting or Revising Tribal Juvenile Delinquency and Status Offense Laws (2022 Update)

The *Tribal Legal Code Resource: Guide for Drafting or Revising Tribal Juvenile Delinquency and Status Offense Laws (2022 Update)* is designed to assist tribal governments with creating, re-evaluating, and strengthening their juvenile codes. This resource was written and updated with the belief that tribal governments are increasingly reassuming responsibility for their youth and are determined to ensure Native youth benefit from responsible guidance. Overall, it was developed to provide a starting point for tribal governments to reference when drafting or revising statutory language pertaining to juvenile offenses. (2022)



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

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

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

Facilitated Discussions available online at:

<http://www.tribal-institute.org/lists/VAWA2022.htm>

- 1st Facilitated Discussion – Domestic Violence, Dating Violence, and Protection Order Violations.
- 2nd Facilitated Discussion – Obstruction of Justice & Assaults against tribal justice personnel.
- 3rd Facilitated Discussion – Sexual Violence and Stalking.
- 4th Facilitated Discussion – Child Violence and Other Issues Including Habeas Corpus and Exhaustion of Tribal Court Remedies
- 5th Facilitated Discussion – Sex Trafficking & Alaska Pilot Project

Upcoming ITWG Meeting

23rd ITWG Meeting:

**Pending OVW Approval for December
2024**



Please visit the ITWG portion of TribalVAWA.org for more information on upcoming and past meetings:
<https://www.tribalvawa.org/itwg>

Contact Information:

Kelly Stoner: Kelly@tlpi.org

**For Technical Assistance requests or to join the ITWG, please email:
TribalVAWA@tlpi.org**