

TRIBAL JURISDICTION PROGRAM



Program Overview

The Office on Violence Against Women provides national leadership on issues of domestic violence, sexual assault, dating violence, and stalking. Since its inception, OVW has supported a multifaceted approach to responding to these crimes through implementation of grant programs. By forging state, local and tribal partnerships among police, prosecutors, judges, victim advocates, health care providers, faith leaders, organizations that serve culturally specific and underserved communities, and others, OVW grants help provide victims, across their lifespan, with the protection and services they need to pursue safe and healthy lives, while improving communities' capacity to provide justice for victims and hold offenders accountable.

Following the Supreme Court's 1978 decision in *Oliphant v. Suquamish Tribe*, tribes lacked criminal jurisdiction to prosecute domestic violence and dating violence committed in Indian country by non-Indian abusers. Prior to the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), if the victim was Indian and the perpetrator was non-Indian, the crime could be prosecuted only by the United States or, in some circumstances, by the state in which the tribe's Indian country is located. VAWA 2013 recognized the authority of participating tribes to exercise special Tribal criminal jurisdiction over non-Indian defendants, who commit crimes of domestic violence or dating violence or violate certain protection orders in Indian country. VAWA 2022 further expanded the types of crimes for which tribes can prosecute non-Indian defendants to include sexual violence, stalking, sex trafficking, child violence, obstruction of justice, and assaults against justice personnel.

The Special Domestic Violence Criminal Jurisdiction (Tribal Jurisdiction Program), authorized pursuant to 25 U.S.C. § 1304(h)(2), is designed to enhance the ability of tribes to implement and exercise criminal jurisdiction over non-Indian offenders. The program requires collaborations among tribal leadership, courts, prosecutors, defenders, law enforcement, probation, victim service providers, and other partners to ensure that non-Indians who commit certain crimes are held accountable.

Program Eligibility

Eligibility for the Tribal Jurisdiction Program is limited to governments of Indian tribes.

OVW does NOT limit eligibility for the Tribal Jurisdiction Program to tribes that are already exercising or are prepared immediately to exercise SDVCJ.

Program Purpose Areas

- To strengthen tribal criminal justice systems to assist Indian tribes in exercising special Tribal criminal jurisdiction, including:
 - Law enforcement;
 - Prosecution;
 - Trial and appellate courts (including facilities maintenance, renovation, and rehabilitation);
 - Supervision systems;
 - Detention and correctional facilities (including facilities maintenance, renovation, and rehabilitation);
 - Treatment, rehabilitation, and reentry programs and services;
 - Culturally appropriate services and assistance for victims and their families;
 - Criminal codes and rules of criminal procedure, appellate procedure, and, evidence.
- To provide indigent criminal defendants with the effective assistance of licensed defense counsel, at no cost to the defendant, in criminal proceedings in which a participating tribe prosecutes covered crimes;
- To ensure that, in criminal proceedings in which a participating tribe exercises special Tribal criminal jurisdiction, jurors are summoned, selected, and instructed in a manner consistent with all applicable requirements; and,
- To accord victims of covered crimes rights that are similar to the rights of a crime victim described in section 3771(a) of Title 18, consistent with tribal law and custom.

Program Requirements

Required Partnerships

Recipients must engage partners, representing various disciplines, to plan, implement, and exercise special Tribal criminal jurisdiction. Required partners for the Tribal Jurisdiction Program are:

- Tribal Leadership;
- Tribal Judge;
- Tribal Prosecutors Office;
- Tribal Attorney/General Counsel;
- Law Enforcement; and,
- Victim Services provider.

Planning Period

In response to tribal leaders' testimony at the OVW Tribal Consultation on VAWA, OVW reduced the number of grant documents required at the time of application so that only tribes selected for funding would be required to submit certain grant-related documentation. Grant documentation required subsequent to award includes: revised project narrative and timeline (if necessary), revised budget detail worksheet and narrative (if necessary), memorandum of understanding/internal memorandum of understanding (MOU/IMOU) and indirect cost rate agreement (if applicable).

Memorandum of Understanding (MOU)/ Internal Memorandum of Understanding (IMOU)

The MOU/IMOU is a document containing the terms of the partnership and the roles and responsibilities between internal and external partners is necessary to ensure successful planning, development, implementation, and exercise of special Tribal criminal jurisdiction.

Readiness Certification

Some awards will include a special condition that requires certain tribal officials certify they are familiar with the Indian Civil Rights Act, as amended, 25 U.S.C. 1301–1304, including the amendments made by VAWA 2013 and VAWA 2022, and the tribe's criminal justice system has adequate safeguards in place to protect defendants' rights.

OVW Training and Technical Assistance Participation

Recipients must participate in OVW-sponsored training and technical assistance. This includes joining and actively participating in the Inter-tribal Technical Assistance Working Group (ITWG) in addition to other OVW training and technical assistance opportunities.

Through this grant program, tribes receive support to exercise criminal jurisdiction over non-Indian defendants for certain crimes and technical assistance for planning and implementing changes in their criminal justice systems necessary to exercise the jurisdiction.

Technical Assistance Available

Since 1995, OVW's Technical Assistance Program provides OVW grantees with training, expertise, and problem-solving strategies to meet the challenges of addressing sexual assault, domestic violence, dating violence, and stalking. The following organizations provide training and resources specifically to tribes interested in exercising criminal jurisdiction over non-Indians:

National Congress of American Indians

www.ncai.org

- Tribal Implementation of VAWA: Resource Center for Implementing Tribal Provisions of VAWA
www.ncai.org/tribal-vaawa
- Intertribal Technical-Assistance Working Group on Special Domestic Violence Criminal Jurisdiction (ITWG)
<https://www.ncai.org/tribal-vaawa/get-started/itwg>

Tribal Law and Policy Institute

www.tlpi.org

Additional Resources

OVW Open Solicitations

<https://www.justice.gov/ovw/open-solicitations>

OVW How to Apply Resources, Tips, and Samples

<https://www.justice.gov/ovw/how-apply>

Current Department of Justice Financial Guide

<https://www.justice.gov/ovw/grant-management>

OVW Technical Assistance Providers

<https://ta2ta.org/>