



Using Federal Law to Increase Safety for Indian Women: TLOA and VAWA Implementation Efforts

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Topics to be covered...

- The need for TLOA and VAWA
- Amendments to the Indian Civil Right Act
- Amendments to the Federal Assault Statute
 - Habitual Domestic Violence
 - Strangulation/Suffocation
- Full Faith and Credit
- The importance of Information Sharing/Working Together



VAWA 2005 Title IX – Safety for Indian Women

- **1 of 3 Indian (including Alaska Native) women are raped in their lifetimes**
- Indian women experience 7 sexual assaults per 1000, compared with 4 per 1000 among Black Americans, 3 per 1000 among Caucasians, 2 per 1000 among Hispanic women, and 1 per 1000 among Asian women
- Indian women experience the violent crime of battering at a rate of 23.2 per 1000, compared with 8 per 1000 among Caucasian women

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Congressional findings continued.....

- During the period 1979 – 1992, homicide was the third leading cause of death of Indian females aged 15 to 34, and 75% were killed by family members or acquaintances
- Indian tribes require additional criminal justice and victim services resources to respond to violent assaults against women
- **The unique relationship of the U.S. to Indian tribes creates a Federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women**

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Deputy Attorney General (DAG) Memo 1/11/10

- “Public safety in tribal communities is a top priority for the Department of Justice.”
- “I direct every USAO with IC in its district to engage annually, in coordination with our law enforcement partners, in consultation with the tribes in that district.
- “I direct all such USAOs to develop an operational plan addressing public safety in IC.”
 - Within 8 months of new USA taking office and review and update annually

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More DAG Memo

- “Addressing violence against women and children in IC is a Department of Justice priority.”
- “The Department, through the USAOs, has a duty to investigate and prosecute serious crimes in IC, including crimes against women and children.”
- “Reports of sexual assault or domestic violence in IC should be investigated wherever credible evidence of violations of federal law exists, and prosecuted when the Principles of Federal Prosecution are met.”

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More DAG Memo

- “Where federal jurisdiction exists, the responsibility to investigate and prosecute violence against women in IC also extends to misdemeanor assaults committed by non-Indian offenders against Native American women on federally recognized reservations.”
- “Due care should be exercised to recognize ongoing risks to victims in sexual assault and domestic violence cases, and to expeditiously make charging decisions in high-risk cases to minimize or eliminate those risks.”

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DAG Memo Concluded

- “In developing district-specific operational plans for public safety in tribal communities, I direct every U.S. Attorney to pay particular attention to violence against women, and to work closely with law enforcement to make these crimes a priority.”
- “The Department has a responsibility to build a successful and sustainable response to the scourge of violent crime on reservations.”

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Operational Plan Core Elements

- Plans should address the following basic components:
 - Communication
 - Investigations
 - Victim advocacy
 - Training
 - Outreach
 - Violence against women
 - Accountability

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Amendments to the Indian Civil Rights Act 25 U.S.C. § 1304

Sections 904 and 908

**With the exception of the Pilot Project,
the effective date of these
amendments was March 7, 2015.**



Tribal Jurisdiction over Crimes of Domestic Violence

- Nature of the Criminal Jurisdiction
- 25 U.S.C. § 1304(b)(1)
“. . . [T]he powers of self-government of a participating tribe include the **inherent power** of that tribe, which is hereby recognized and affirmed, to exercise special domestic violence criminal jurisdiction over **all** persons.”



When can a tribe exercise SDVCJ?

- 25 U.S.C. § 1304(c) –
- For criminal conduct that falls into one or more of the following categories:
 - Domestic violence and dating violence that occurs in the Indian Country of the participating tribe; and
 - Violations of protection orders that occur in the Indian Country of the participating tribe



Definitions - 25 U.S.C. § 1304(a)(1)

- **Dating Violence** – “violence 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.”



Definitions - 25 U.S.C. § 1304(a)(2)

- **Domestic Violence** – “violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by 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 violence occurs.”
- **What types of relationships are not covered?**



Sisseton-Wahpeton Oyate Code

- **Domestic Violence** – “means the occurrence of one or more of the following acts by a **family or household member**, a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or a person similarly situated to a spouse of the victim under the domestic – or family – violence laws of the Sisseton-Wahpeton Oyate.”
- 52-01-04



Definition of Spouse or Intimate Partner

- 18 U.S.C. § 2266(7)(A)(i)
 - for purposes of sections other than 18 U.S.C. § 2261A
 - (I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser, or
 - (II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.



Definition of Spouse or Intimate Partner Cont.

- 18 U.S.C. § 2266(7)(B)
 - “any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.”



What constitutes a violation of a protection order for purposes of SDVCJ?

- 25 U.S.C. § 1304(c)(2)(A)-(B)
- An act that violates the portion of a protection order that –
 - 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;
 - Was issued against the defendant;
 - Is enforceable by the participating tribe; and
 - Is consistent with 18 U.S.C. § 2265(b)



18 U.S.C. § 2265(b)

- A protection order issued by a State, tribal, or territorial court is consistent with this subsection, if
 - The court has jurisdiction over the parties and matter under the law of the State, Indian tribe, or territory; and
 - Reasonable notice and an opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person’s right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by the law, and within a reasonable time after the order is issued, sufficient to protect the respondent’s due-process rights.



Exceptions to SDVCJ?

- 25 U.S.C. § 1304(b)(4)
- Neither the defendant nor the victim is Indian
- The defendant lacks sufficient ties to the tribe
- Sufficient ties are the following:
 - Resides in the Indian Country of the participating tribe;
 - Is employed in the Indian Country of the participating tribe; or
 - Is a spouse, intimate partner, or dating partner of a member of the participating tribe or of an Indian who resides in the Indian Country of the participating tribe



Defendants’ Rights under ICRA pre-TLOA

- The right to the equal protection of the tribe’s laws.
- The right not to be deprived of liberty or property without due process of law.
- The right against unreasonable search and seizures.
- The right not to be twice put in jeopardy for the same tribal offense.
- The right not to be compelled to testify against oneself in a criminal case.
- The right to a speedy and public trial.
- The right to a trial by jury of not less than six persons.
- The right to be informed of the nature and cause of the accusation in a criminal case.
- The right to be confronted with adverse witnesses.
- The right to compulsory process for obtaining witnesses in one’s favor.
- The rights against excessive bail, excessive fines, and cruel and unusual punishments.



What rights must be afforded to the Defendant?

- 25 U.S.C. § 1304(d)
- All applicable rights under the Indian Civil Rights Act
- If **ANY** term of imprisonment is imposed, then all rights described in the Tribal Law and Order Act of 2010 (25 U.S.C. § 1302(c))
- The right to a trial by an impartial jury that is drawn from sources that reflect a fair cross-section of the community and do not systematically exclude any distinctive group in the community, including non-Indians
- All other rights whose protection is necessary under the U.S. Constitution in order for Congress to recognize and affirm the inherent power of the participating tribe to exercise SDVCJ over the defendant



Rights of Defendants – 25 U.S.C. § 1302(c)

- The Indian tribe shall:
 - (1) provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the U.S. Constitution;
 - (2) at the expense of the tribal government, provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the U.S. that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.



Rights of Defendants – 25 U.S.C. § 1302(c)

- (3) require that the judge presiding over the criminal proceeding—
 - (i) has sufficient legal training to preside over criminal proceedings; and
 - (ii) is licensed to practice law in any jurisdiction in the U.S.;
- (4) prior to charging the defendant, make publicly available the tribe’s criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges); and
- (5) maintain a record of the criminal proceeding, including an audio or other recording of the trial



Section 908 – Pilot Project

- Any time prior to March 7, 2015, a tribe may ask the Attorney General of the United States to designate the tribe as a participating tribe for purposes of exercising SDVCJ.
- Prior to making a decision, the Attorney General must coordinate with DOI, consult with affected tribes, and conclude that the requesting tribe's criminal-justice system has adequate safeguards in place to protect defendants' rights, consistent with 25 U.S.C. § 1304.
- DOJ is engaging tribal leaders in consultation about the process and criteria for the Pilot Project.



Federal Register Notice on the Pilot Project

On June 14, 2013, the *Federal Register* published the official version of the Department of Justice's Notice on the Pilot Project for Tribal Jurisdiction over Crimes of Domestic Violence. The official 14-page Notice is available online at <https://www.federalregister.gov/articles/2013/06/14/2013-14158/pilot-project-for-tribal-jurisdiction-over-crimes-of-domestic-violence>



Federal Register Notice on the Pilot Project

On November 29, 2013, the *Federal Register* published the final notice establishing procedures for Indian tribes to request designation as Pilot Tribes for purposes of SDVCJ. The official Notice is available online at

http://www.ncai.org/tribal-vawa/pilot-project-itwg/VAWA_Pilot_Project_Final_Notice.pdf



Tribes Awarded Pilot Project Status

The following Tribes' Pilot Project applications were granted by the Department of Justice on February 6, 2014:

- Confederated Tribes of the Umatilla Indian Reservation (in Oregon)
- Pascua Yaqui Tribe of Arizona
- Tulalip Tribes of Washington

<http://www.justice.gov/tribal/vawa-pilot-2013.html>



Tribes Awarded Pilot Project Status

The following Tribes' Pilot Project applications were granted by the Department of Justice on March 6, 2015:

- The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation
- The Sisseton Wahpeton Oyate of the Lake Traverse Reservation
- Materials can be found online at <http://www.justice.gov/tribal/vawa-2013-pilot-project>
- **As of March 7, 2015, tribes do not need to seek permission from DOJ to exercise SDVCJ**



Additional SDVCJ Tribes

- | | |
|---------------------------------|---|
| • Umatilla (OR) | • Sac and Fox (OK) |
| • Pascua Yaqui (AZ) | • Kickapoo Tribe (OK) |
| • Tulalip (WA) | • Nottawaseppi (MI) |
| • Fort Peck (MT) | • Standing Rock (ND/SD) |
| • Sisseton (SD) | • Sault Ste Marie (MI) |
| • Little Traverse Bay Band (MI) | • Chitimacha Tribe (LA) |
| • Eastern Band of Cherokee (NC) | • (18 more are close) |
| • Seminole Nation (OK) | • 0 = # of Habeas challenges to date |

DOJ's Tribal Justice & Safety Website

<http://www.justice.gov/tribal/index.html>

This Web site provides links to important information concerning available grants and implementation of VAWA 2013.



U.S. Department of Justice Indian Country Investigations and Prosecutions Report 2015 (PDF)

Corrected Data in the Indian Country Investigations and Prosecutions Reports for 2011-12, 2013, and 2014 (PDF)

U.S. Department of Justice Indian Country Investigations and Prosecutions Report 2014 (PDF)

U.S. Department of Justice Report on Enhanced Tribal-Court Sentencing Authority (PDF)

Enhanced Sentencing in Tribal Courts: Lessons Learned From Tribes (PDF)

U.S. Department of Justice Indian Country Investigations and Prosecutions 2013 (PDF)

U.S. Department of Justice Indian Country Investigations and Prosecutions 2011-2012 (PDF)

Indian Alcohol and Substance Abuse Memorandum of Agreement, August 2011 (PDF)

The Tribal Law and Order Act Plan Long Term Plan to Build and Enhance Tribal Justice Systems, August 2011 (PDF)

Full Text of the Tribal Law and Order Act (PDF)

United States Attorney Tribal Law and Order Act Directives (PDF)

Bureau of Prisons Implements Key Provision of Tribal Law and Order Act with Pilot Program to Incarcerate Tribal Prisoners in Federal Prisons

COPS Office Report to Congress, January 2011 (PDF)

BJS Compendium of Tribal Crime Data, June 2011 (PDF)

VAWA 2013 PILOT PROJECT

The following Tribes' Pilot Project applications were granted by the Department of Justice prior to March 7, 2015:

Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation (in Montana)

- Letter to Fort Peck
- Application Questionnaire

Confederated Tribes of the Umatilla Indian Reservation (in Oregon)

- Letter to Umatilla
- Application Questionnaire
- Court Directive
- Court Code
- Criminal Code
- SB-412 Implementation Code (powers of law enforcement officers)
- Sex Offender Registration Code
- Rules of Evidence
- CTUIR Resolution

Pascua Yaqui Tribe of Arizona

- Letter to Pascua Yaqui
- Application Questionnaire

Sisseton Wahpeton Oyate of the Lake Traverse Reservation (in South Dakota)

- Letter to Sisseton Wahpeton
- Application Questionnaire

Tulalip Tribes of Washington

- Letter to Tulalip
- Application Questionnaire
- Table of Exhibits
- Exhibits

Domestic Assault by an Habitual Offender 18 U.S.C. § 117

- Is a federal offense when D commits a domestic assault in IC and he has two prior federal, state or tribal court convictions for offenses that would be, if subject to federal jurisdiction, an assault, a sexual abuse offense, an offense under Chapter 110A, or a serious violent felony against a spouse or intimate partner.
- 5 year statutory maximum sentence unless substantial bodily injury to victim – then is increased to a statutory maximum of 10 years.



United States v. Michael Bryant, Jr., 136 S. Ct. 1954 (2016)

- Bryant* raises the question whether § 117(a)'s inclusion of tribal-court convictions as predicate offenses is compatible with the 6th A's right to counsel. The 6th A guarantees indigent Ds appointed counsel in any state or federal criminal proceeding in which a term of imprisonment is imposed, but it does not apply in tribal-court proceedings.
- The Indian Civil Rights Act of 1968 (ICRA), which governs tribal-court proceedings, accords a range of procedural safeguards to tribal-court defendants "similar, but not identical, to those contained in the Bill of Rights and the Fourteenth Amendment." In particular, ICRA provides indigent native Ds with a right to appointed counsel only for sentences exceeding one year. 25 U.S.C. § 1302(c)(2).
- Issue: Is it permissible to use uncounseled tribal-court convictions—obtained in full compliance with ICRA—to establish the prior-crimes predicate of § 117(a)?**



Bryant continued

- D, an enrolled member of the Northern Cheyenne Tribe, lived on the reservation. He has a record of over 100 tribal-court convictions, including several misdemeanor convictions for domestic assault. Between 1997 and 2007, D pleaded guilty on at least five occasions in Tribal Court to committing domestic abuse in violation of the Tribal Code. On one occasion, D hit his live-in girlfriend on the head with a beer bottle and attempted to strangle her. On another, D beat a different girlfriend, kneeling her in the face, breaking her nose, and leaving her bruised and bloodied.
- For most of D's repeated brutal acts of domestic violence, the Tribal Court sentenced him to terms of imprisonment, never exceeding one year. When convicted of these offenses, D was indigent and was not appointed counsel. Because of his short prison terms, D acknowledges, the prior tribal-court proceedings complied with ICRA, and his convictions were therefore valid when entered.
- D has never challenged his tribal-court convictions in federal court under ICRA's habeas corpus provision.
- In 2011, D was arrested yet again for assaulting women. In February, D attacked his then girlfriend, dragging her off the bed, pulling her hair, and repeatedly punching and kicking her. During an interview with LE officers, D admitted that he had physically assaulted this V five or six times. Three months later, he assaulted another woman with whom he was then living, waking her by yelling that he could not find his truck keys and then strangling her until she almost lost consciousness. D later stated that he had assaulted this victim on three separate occasions during the two months they dated.



Bryant continued

The U.S. Supreme Court held:
Because Bryant's tribal-court convictions occurred in proceedings that complied with ICRA and were therefore valid when entered, use of those convictions as predicate offenses in a § 117(a) prosecution does not violate the Constitution.
We accordingly reverse the judgment of the Court of Appeals for the Ninth Circuit and remand the case for further proceedings consistent with this opinion.



United States v. Michael Lee Long, Jr. (8th Cir.)

- 870 F.3d 741 (2017)
- Long was convicted by a jury of the following:
 - one count of assault with a dangerous weapon, in violation of 18 U.S.C. §§ 1153 and 113(a)(3);
 - one count of simple assault, in violation of 18 U.S.C. §§ 1153 and 113(a)(5);
 - one count of being a prohibited person in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(9), 924(a)(2), and 924(d);
 - and one count of using a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A).



United States v. Michael Lee Long, Jr. (8th Cir.)

- D moved to dismiss the prohibited-person count, arguing that his underlying tribal-court conviction for domestic violence was obtained without counsel and thus could not qualify as a predicate conviction under 18 U.S.C. § 921(a)(33)(B)(i).
- The US presented evidence at the pretrial conference that Long had pleaded guilty to an offense of domestic abuse under Rosebud tribal law in June 2011.
- D stated that his counsel in that case was not a licensed attorney or a law school graduate.
- The US stated that it had not been aware that White Pipe was not law trained, but agreed that it had been unable to find her name in the Membership Directory.
- The court denied the motion the following day, citing *United States v. First*, 731 F.3d 998 (9th Cir. 2013). D. Ct. Order of May 10, 2016.



United States v. Michael Lee Long, Jr. (8th Cir.)

- Under 18 U.S.C. § 922(g)(9), it is unlawful for any person “who has been convicted in any court of a misdemeanor crime of domestic violence” to possess a firearm in or affecting interstate commerce, or to receive a firearm that has been shipped in interstate commerce. Section 921(a)(33)(B), however, provides:
 - (B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—
 - (I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and
 - (II) the case was tried by a jury or the person knowingly and intelligently waived the right to have the case tried by a jury



United States v. Michael Lee Long, Jr. (8th Cir.)

- We agree with the Ninth Circuit that the phrase “right to counsel” in § 921(a)(33)(B)(i)(I) refers to the right to counsel “as it existed in the predicate misdemeanor proceeding.”
- “The Sixth Amendment guarantees indigent defendants, in state and federal criminal proceedings, appointed counsel in any case in which a term of imprisonment is imposed. But the Sixth Amendment does not apply to tribal-court *747 proceedings.” [United States v. Bryant, —U.S.—, 136 S.Ct. 1954, 1958, 195 L.Ed.2d 317 \(2016\)](#) (citation omitted). Under the Indian Civil Rights Act of 1968, a criminal defendant in tribal-court proceedings is entitled to appointed counsel when a sentence of more than one year’s imprisonment is imposed. [25 U.S.C. § 1302\(c\)\(2\)](#). Because Long was sentenced to 365 days’ imprisonment, with 305 days suspended, in the underlying tribal-court proceeding, any right that Long had to appointed counsel could have come only from Rosebud tribal law.



Amendments to the Federal Assault Statute 18 U.S.C. § 113

Section 906 of VAWA 2013
Effective date is March 7, 2013

Assault by Strangling or Suffocating

- A new felony assault provision has been added for committing an “[a]ssault of a spouse, intimate partner, or dating partner by strangling, suffocating, or attempting to strangle or suffocate”
- 18 U.S.C. § 113(a)(8)
- Punishable by a maximum sentence of 10 years imprisonment, a fine, or both.



Definition of Strangling

- The term “strangling” means “intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim.”
- 18 U.S.C. § 113(b)(4)



Definition of Suffocating

- The term “suffocating” means “intentionally, knowingly, or recklessly impeding the normal breathing of a person by covering the mouth of the person, the nose of the person, or both, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim.”
- 18 U.S.C. § 113(b)(5)



Amendment to the Major Crimes Act

- The Major Crimes Act, 18 U.S.C. § 1153(a), has been amended to capture all felony assaults under 18 U.S.C. § 113.
 - Assault with Intent to Commit Murder, Aggravated Sexual Abuse, or Sexual Abuse
 - Assault with Intent to Commit any Felony except Murder, Aggravated Sexual Abuse, or Sexual Abuse
 - Assault with a Dangerous Weapon
 - Assault Resulting in Serious Bodily Injury
 - Assault Resulting in Substantial Bodily Injury
 - **Assault by Strangling or Suffocating**



United States v. Crawford

- D strangled his girlfriend
- Assault occurred on the Blackfeet Indian Reservation
- Law enforcement obtained pictures
- The doctor documented a substantial risk of death
- D confessed to the FBI and pled guilty to one count of strangulation (18 U.S.C. § 113(a)(8))
- D sentenced in March 2014 to 30 months’ imprisonment and 3 years of supervised release



**United States v. Jordan Lamott, 831 F.3d 1153
(9th Cir. 2016)**

- D returned home with the V, his girlfriend, after a night of drinking with friends.
- D became jealous of one of the V's friends, he pushed her on the bed, and began strangling her. She fought back and scratched his face. D then picked her up by her hair, hit her on the head, dropped her on the bed, and began strangling her again. D lost his balance, and the V ran to the bathroom. D went into the bathroom, grabbed the V by the legs, dragged her back to the bed, and strangled her until she was unconscious.
- The next morning she left the house and her mother took her to the hospital.



Lamott continued

- D charged with one count of assault by strangulation and one count of ARSBI
- Following a two-day jury trial, D convicted on strangulation charge and hung jury on the ARSBI charge, which the AUSA later dismissed.
- D sentenced to 32 months' imprisonment.
- On appeal, D argued the court erred by instructing the jury to disregard E of his voluntary intoxication because, he contends, assault by strangulation is a specific intent crime.
- **Issue: Whether assault by strangulation is a specific or general intent crime?**



Lamott continued

- Several factors indicate that Congress intended assault by strangulation to require a showing only of general intent. First, three of the eight federal assault offenses, §113, contain the words "with intent to," but section (a)(8) does not.
- Because strangling can be done knowingly, or even recklessly, and because the definition explicitly disclaims the requirement of "any intent to kill or protractedly injure," it is not likely Congress intended that "assault ... by strangling" require specific intent.
- Third, it appears Congress intended § 113 to operate not merely as an assault statute but rather as an assault and battery statute, and battery is a general intent crime. That Congress meant "battery" when it said "assault" in § 113 is evidenced by the fact that many of § 113's provisions (including the one at issue in this case) require physical contact—a hallmark of common law battery but not of common law assault.



**Federal Rules of Criminal Procedure:
Rule 16**

(G) *Expert Witnesses.* At the defendant's request, the government must give to the defendant a written summary of any testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial. If the government requests discovery under subdivision (b)(1)(C)(ii) and the defendant complies, the government must, at the defendant's request, give to the defendant a written summary of testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial on the issue of the defendant's mental condition. The summary provided under this subparagraph must describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications.

Full Faith and Credit

- Full faith and credit for protection orders means that when a protection order issued by any State, Indian tribe, or territory is violated in any other jurisdiction, it must be enforced as if the order had been issued in the enforcing jurisdiction.



**Amendment to the
Full Faith and Credit Statute
18 U.S.C. § 2265(e)**

Section 905 of VAWA 2013
Effective date March 7, 2013



Tribal Protection Orders

"For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe."

- Clarifies that tribes have full civil jurisdiction to issue and enforce protection orders involving any person (Indian or non-Indian) in matters arising anywhere in the tribe's Indian Country or otherwise within the tribe's authority.
- In Alaska, this applies only to the Metlakatla Indian Community



RESPONDENT

JOHN DOE DOB: 01/01/1980
 Sex: Male
 Race: White
 Height: 5' 11"
 Weight: 170
 Eyes: Brown
 Hair: Brown

Scars/Marks/Tattoos:
Tattoo on Left Shoulder

Protection Order

This card certifies that the person named on the backside of this card has a Protection Order on file with the State of Montana against the individual listed above. Violation of the Protection Order, even if invited, is a Misdemeanor under §§ 45-5-220 and/or 45-5-626 MCA. Pursuant to Title 18, USC § 2265(a), Protection Orders issued by outside jurisdictions shall be provided full faith and credit.

State of Montana	<u>PETITIONER</u>
County: Carbon	JANE DOE
Court: Justice Court	DOB: 01/01/1980
Case No.: 123456	Race: White
Issued: 04/01/2010	Sex: Female
Expires: 04/01/2012	Height: 5' 6"

Other People Protected by this Order:

KATELYN DOE	DOB: 02/14/2001
JODIE DOE	DOB: 07/24/2003
	DOB: //
	DOB: //

Law Enforcement Must Verify This Order With Local Dispatch.

Benefits of Hope Card Project

The Hope Card allows someone who has been granted an order of protection in one jurisdiction to easily prove it in another jurisdiction. Victims of domestic violence may carry the Hope Card conveniently in their pocket, wallet or purse. The Card is durable and water resistant to prevent damage.

The Hope Card lets law enforcement know that there is a valid, permanent order of protection in place. In case of a potential violation of an order, a law enforcement officer can refer to the Hope Card for more information.

Victims can conveniently request a card using the online service.

Centralizing the Hope Card Service significantly reduces the cost by eliminating the purchase of expensive card printers for each court that issues orders of protection. Online IJS Broker interface to the State Protection Order Hot File eliminates calls to the courts for verification of protection order status.

Online IJS Broker interface to the State Driver License Photo Repository provides photograph of respondent which assists Law Enforcement when responding to violations of orders of protection.



TRIBAL MEMBER SENTENCED IN WASHINGTON STATE TO TWO YEARS IN PRISON FOR PURCHASING FIREARMS WHILE SUBJECT TO DOMESTIC VIOLENCE PROTECTION ORDER

- One of Weapons Purchased Illegally Later Used in Marysville-Pilchuck School Shooting
- The father of a teen who killed four students, severely injured a fifth student and killed himself in October 2014 at Marysville-Pilchuck High School in Washington State was sentenced today in U.S. District Court in Seattle to two years in prison for six counts of illegal firearms possession, announced U.S. Attorney Annette L. Hayes of the Western District of Washington.
- Fryberg, 42, was convicted in September 2015 following a four day jury trial. U.S. District Judge James L. Robart imposed three years of supervised release to follow the prison term.



DOJ's Tribal Access Program

The U.S. Department of Justice (DOJ) launched the Tribal Access Program for National Crime Information (TAP) in August 2015 to provide tribes access to national crime information systems for both civil and criminal purposes. TAP allows tribes to more effectively serve and protect their nation's citizens by ensuring the exchange of critical data across the Criminal Justice Information Services (CJIS) systems and other national crime information systems.

<https://www.justice.gov/tribal/tribal-access-program-tap>



Crime Victims' Rights Act -18 U.S.C. § 3771

1. The right to be reasonably protected from the accused.
2. The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
3. The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
4. The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.

Crime Victims' Rights Act -18 U.S.C. § 3771

5. The reasonable right to confer with the attorney for the Government in the case.
6. The right to full and timely restitution as provided in law.
7. The right to proceedings free from unreasonable delay.
8. The right to be treated with fairness and with respect for the victim's dignity and privacy.
9. Right to be informed in a timely manner of any plea bargain or deferred prosecution agreement
10. Right to be informed of the rights under this section and the services described in Section 503(c) of the VRRRA and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice