

1 **Integrated DV Courts in Tribal Communities**

Honorable BJ Jones

Chief Judge-Sisseton-Wahpeton and Prairie Island Tribal Courts

Director- Tribal Judicial Institute- UND School of Law

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2 **What we should strive for in the Justice system**

- "If we are to fight discrimination and injustice against women we must start from the home for if a woman cannot be safe in her own house then she cannot be expected to feel safe anywhere."

Aysha Taryam- First female publisher of Middle Eastern newspaper

3 **Overview of Session**

- Discuss what an integrated DV Court is and what it strives to accomplish for victim safety
- Discuss what legal proceedings can be incorporated into the Integrated model
- See how the model can be adapted for tribal justice systems with fewer resources sometimes
- Discuss the interplay between the Integrated Civil DV Court and the criminal justice process- can they merge?
- Examine how the Integrated DV Court can aid in criminal prosecutions, especially with reluctant victims or nonappearances
- Discuss any resources available to Tribes seeking to start these Courts

4 **Integrated DV Court Concept**

- The attempt to assimilate all legal issues facing victims of domestic violence into a streamlined process where one judicial officer can resolve all issues limiting the number of times the victim must encounter the perpetrator in the judicial system
- Sometimes referred to as "One Judge-One Family" Court
- Many Tribes call these Courts "Domestic Violence Courts" but the concept is the same- See http://docs.wixstatic.com/ugd/3fb28d_0130a67ad6fc4051af0895b18e199441.pdf
- Has been utilized quite frequently in some state courts
- Interestingly some Tribal Courts, because of their smaller size, utilize these principles but not in a formalized way

5 **Victim Safety Theory Behind Integrated DV Courts**

- Lessen the number of times the victim must encounter the perpetrator in the judicial system
- Avoid conflicting court orders that may enable further abuse- Perpetrator learns the victim has filed for Protection order in one Court so he files for custody or files child protection complaint in another Court and different Judges issue conflicting orders
- Avoid need for victim to offer testimony on multiple occasions that can be used to

impeach her in subsequent proceedings

6 **Examples of retaliatory legal proceedings Integrated DV Courts seek to avoid**

- Custody petitions
- Involuntary civil commitment proceedings
- Child Protection referrals
- Evictions
- Complaints to Employers
- School-related complaints

7 **Key components of an Integrated DV Court**

- Compliance coordination- Court needs to maintain frequent contact with the service providers for victims to ensure legal issues being addressed in a consistent and timely manner
- Judicial Training- Judge assigned cases need to be aware of dynamics both of DV and how the judicial system may be manipulated
- Maintain the integrity of each case type by ensuring the appropriate process for each is complied with
- Assessing outcomes- Have more legal issues for victims been addressed in a timely manner than non-integrated systems?

8 **Legal proceedings that can be incorporated into Integrated Court**

- DV Protection orders
- Child Custody Proceedings
- CHIPS (child welfare)
- Dissolution proceedings
- Child Support
- Housing Issues
- Third Party HRO's (harassment restraining orders filed by associates of perpetrators to harass victim)
- Property Issues
- What about criminal cases involving DV when civil cases proceeding?

9 **Criminal Prosecutions in Integrated DV Courts**

- Should the same Judge who heard a civil protection order hear a criminal prosecution involving the same domestic abuse incident?
- Judges differ on this- Some feel it is inappropriate because in a criminal proceeding unethical to consider evidence not submitted in case
- Most Judges though feel that as long as there is a barrier between the two proceedings there is no ethical bar
- Many tribal courts are so small (one or two Judges) there is really no choice

10 **How the Integrated Court Idea Can Help in Criminal Prosecutions**

- Due to Crawford v. Washington and the natural reluctance of many victims to testify

against perpetrators many Tribes are not successful in prosecution of criminal DV cases

- However an integrated DV Court can produce “evidence” in the form of sworn testimony at PO hearing or other hearing, where perpetrator has chance to cross-examine, that could be utilized if the Criminal Court finds that the victim is “unavailable”

11 **Adapting Concept to Tribal Communities- Benefits**

- It is a natural fit because many Tribal Courts already operate “integrated” courts but lack the key components to be successful
- With Tribes now expanding their criminal authority in DV arena (SDVJ over non-Indians in VAWA and felony-type sentencing authority under TLOA) it is critical that a strong civil DV Court exist to protect the victim against potential retaliation by perpetrators using the judicial system
- See <https://www.courtinnovation.org/sites/default/files/documents/Combating%20Domestic%20Violence%20in%20Indian%20Country.pdf> for a good discussion of whether these Courts will work in tribal communities