



# National Congress of American Indians

Washington, DC

[www.ncai.org](http://www.ncai.org)

<http://www.ncai.org/tribal-vawa>

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# Comprehensive Training and Technical Assistance: Tribal Jurisdiction Program



## Project Summary:

Through the NCAI comprehensive T/TA project, OVW Tribal Jurisdiction program grantees and potential grantees receive support and technical assistance for planning, developing and implementing changes in their criminal justice systems necessary to exercise SDVCJ.

Project POC: [Esther Labrado](#)

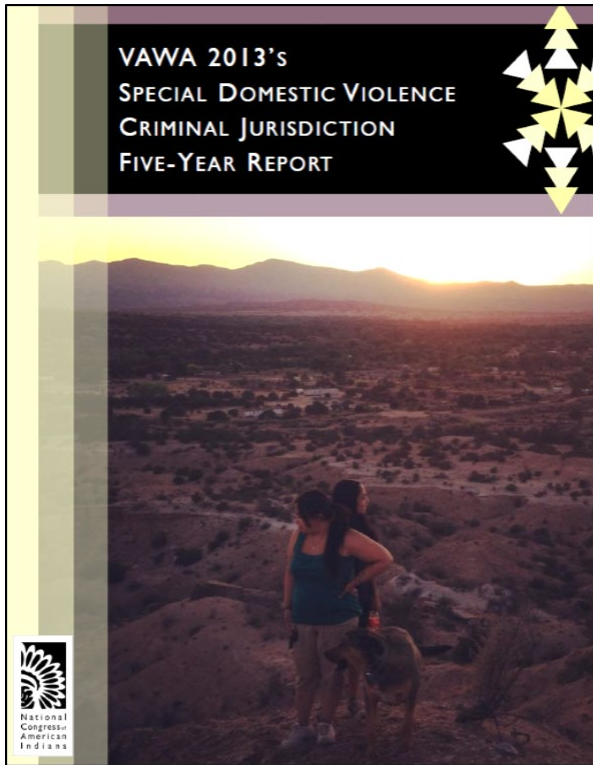
OVW Program Specialist: [Rebekah Jones](#)

### Project Partners:

- Tribal Law & Policy Institute
- Alliance of Tribal Coalitions to End Violence



# NCAI TA Project: Comprehensive T/TA Available



- ▶ OVW Training Events - annual New Grantee Orientation, semi-annual Inter-Tribal Technical-Assistance Working Group meetings, and subject-matter expert support for other OVW events
- ▶ Webinars - Jury Pool Development, Health Care for non-Indian Defendants, and more...
- ▶ Regularly scheduled peer-networking conference calls
- ▶ 5<sup>th</sup> Anniversary SDVCJ Implementation Report and other publications
- ▶ **Tailored Grantee Technical Assistance**
  - ▶ On-site SDVCJ team training
  - ▶ 1:1 consultation and support for Tribal Jurisdiction grantee projects
  - ▶ Code review - Administrative policies/procedures review
  - ▶ Other support and consultation to plan, implement, and exercise SDVCJ

# NCAI T/TA Project: Intertribal Technical-Assistance Working Group

- ▶ DOJ launched the Intertribal Technical- Assistance Working Group (ITWG) on Violence Against Women Reauthorization Act of 2013 special domestic violence criminal jurisdiction (SDVCJ) as a key part of the Pilot Project.
- ▶ It is a voluntary working group of tribal representatives who **exchange views, information, and advice** about how tribes may best exercise SDVCJ and combat domestic violence.
  - ▶ Currently over 50 tribes are represented.
  - ▶ Next ITWG meeting will be virtual and is scheduled for March 16-18, 2021

**Interested in joining the ITWG or looking for VAWA SDVCJ implementation resources?**

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# Welcome Tribal Jurisdiction Grantees!



OVW Tribal Affairs Division New Grantee Orientation  
February 2, 2021

This project was supported by Grant No. 2016-TA-AX-K005, awarded by the U.S. Department of Justice, Office on Violence Against Women. The opinions, findings, conclusions, and recommendations expressed in this program are those of the presenters and do not necessarily reflect the views of the Department of Justice.

# Agenda

- ❖ February 2: Introductions and Overview
  - Introductions
  - Overview of Special Domestic Violence Criminal Jurisdiction (SDVCJ)
  - Experiences of other OVW Tribal Jurisdiction Grantees
    - Chris Barone, Port Gamble S’Klallam Tribe
    - Anna Heiselman, Grand Traverse Band of Ottawa and Chippewa Indians
- ❖ February 3: Exploring the Roles
- ❖ February 4: Facilitated Team Planning and TA Self-Assessment

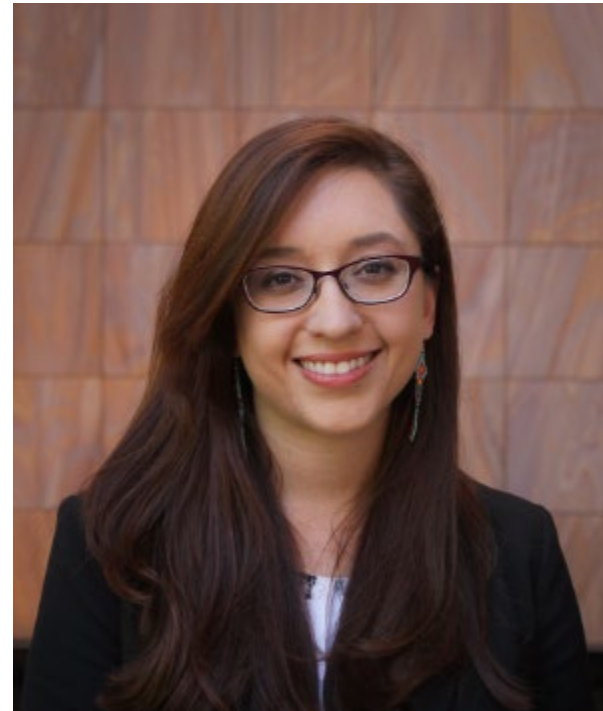
# TA Team

## National Congress of American Indians Fund

Virginia Davis  
Senior Advisor



Esther Labrado  
Staff Attorney



# TA Team (cont'd)

## Tribal Law & Policy Institute



Jerry Gardner  
Executive Director



Kelly Stoner  
Victim Advocacy  
Legal Specialist



Chia Halpern Beetso  
Tribal Court Specialist



# TA Team (cont'd)

## Key Project Consultants



Dawn Stover  
Executive Director  
Alliance of Tribal Coalitions  
to End Violence

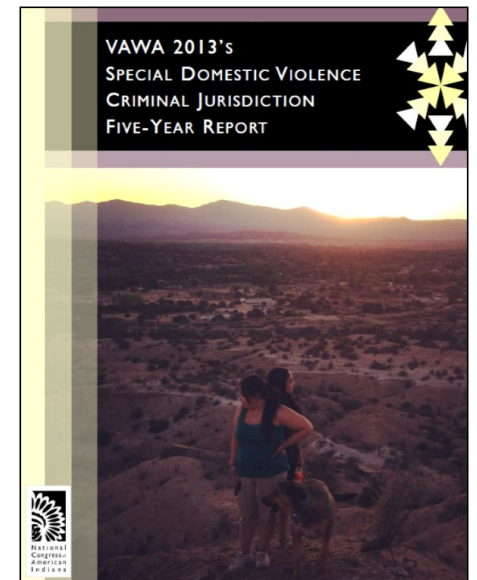


Hon. Steve Aycok  
Consultant

# Comprehensive Training/Technical Assistance

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**Esther Labrado, [elabrado@ncai.org](mailto:elabrado@ncai.org)**



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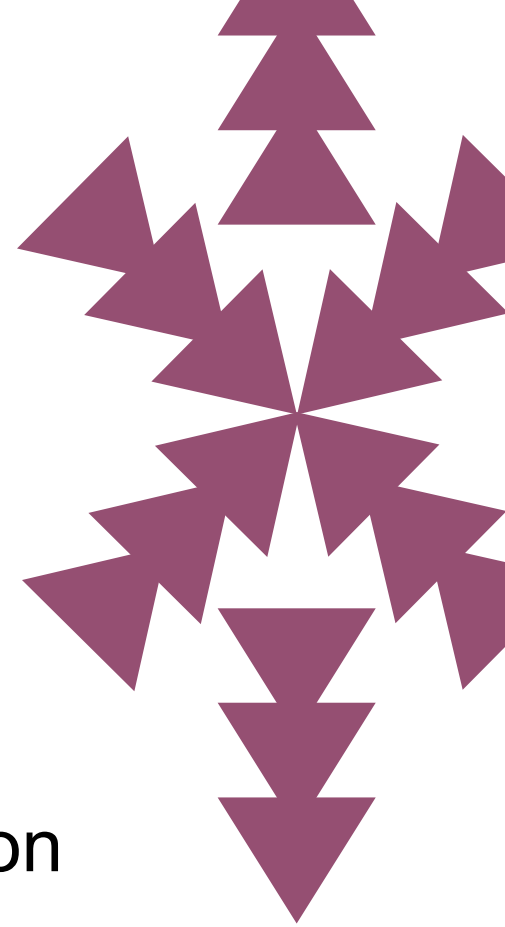
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# Tribal Jurisdiction Grantees Introductions

- Name and Tribal Nation
- Brief description of grant project
- Primary Goal

# **VAWA's Special Domestic Violence Criminal Jurisdiction**

OVW Tribal Affairs Division New Grantee Orientation  
February 2, 2021



# The Problem

- *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978)
  - No tribal jurisdiction over non-Indian defendants.
- Infrequent prosecutions by federal and state authorities with jurisdiction.

# Tribal Sovereignty

VAWA 2013 affirmed tribal **inherent authority** to exercise criminal jurisdiction over non-Indians who commit domestic violence, dating violence, or violations of qualifying protection orders in Indian country.

Exercising special domestic violence criminal jurisdiction (SDVCJ) is **entirely voluntary and elective**. SDVCJ does not change existing federal or state jurisdiction.



# Section 904: Tribal Jurisdiction over Crimes of Domestic Violence

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

- Domestic Violence.
  - Dating Violence.
  - 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.

Codified at 25 U.S.C. §1304



# What VAWA 2013 Section 904 Does NOT Cover

- Victim and Defendant are both non-Indian.
- Non-Indian Defendant lacks sufficient ties to the Indian Tribe.
  - Defendant must either:
    - Reside in the Indian country of the participating tribe; or
    - Be employed in the Indian country of the participating tribe; or
    - Be a spouse, intimate partner, or dating partner of a tribal member, or an Indian who resides in the Indian country of the participating tribe.
- The crime did not take place in the Indian country of the participating tribe.
- Tribe chooses not to exercise VAWA 2013 section 904 jurisdiction.

# VAWA Special Domestic Violence 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, all rights described in Tribal Law & Order Act (TLOA) for enhanced sentencing – 25 U.S.C. 1302(c).
- Additional rights required just by VAWA.

# What Tribal Governments Need to Do to Exercise SDVCJ under VAWA

1. Ensure that nothing in current constitution/code prohibits exercise of SDVCJ.
2. Add specific provisions protecting defendant rights.
3. Consider the following questions:
  - ❖ What changes would be required in your criminal code?
  - ❖ Does your tribe have a public defender program?
  - ❖ Do your existing judges have the requisite training?
  - ❖ What kind of facilities exist for incarceration?
  - ❖ How would we make the jury system changes needed?
  - ❖ How can we fund the changes?

## 26 SDVCJ EXERCISING TRIBES

**Pascua Yaqui Tribe (AZ)\***

**Tulalip Tribes of Washington\***

**Confederated Tribes of the Umatilla Indian Reservation (OR)\***

**Sisseton-Wahpeton Oyate (SD/ND)\***

**Assiniboine & Sioux Tribes of the Fort Peck Reservation (MT)\***

**Little Traverse Bay Bands of Odawa Indians (MI)**

**Alabama-Coushatta Tribe of Texas**

**Choctaw Nation of Oklahoma**

**Eastern Band of Cherokee Indians (NC)**

**Seminole Nation of Oklahoma**

**Sac and Fox Nation (OK)**

**Kickapoo Tribe of Oklahoma**

**Nottawaseppi Huron Band of Potawatomi (MI)**

**Muscogee (Creek) Nation (OK)**

**Standing Rock Sioux Tribe (SD/ND)**

**Sault Ste. Marie Tribe of Chippewa (MI)**

**Chitimacha Tribe of Louisiana**

**Lower Elwha Klallam Tribe (WA)**

**Quinault Indian Nation (WA)**

**Cherokee Nation (OK)**

**Gila River Indian Community (AZ)**

**Port Gamble S'Klallam Tribe (WA)**

**Confederated Tribes of the Chehalis Reservation (WA)**

**Grand Traverse Band of Ottawa & Chippewa Indians (MI)**

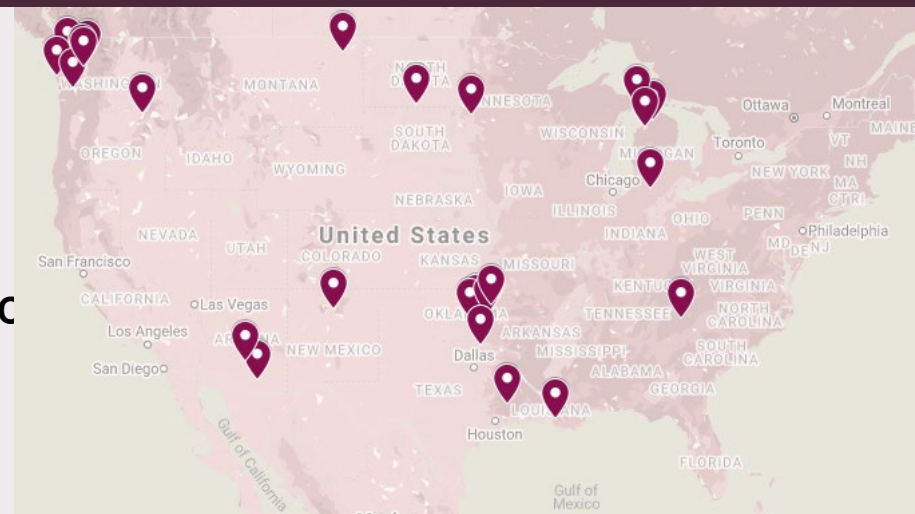
**Suquamish Tribe (WA)**

**Santa Clara Pueblo (NM)**

As of 10/1/2020

*\* Denotes Pilot Project Tribe*

### MAP OF SDVCJ IMPLEMENTING TRIBES

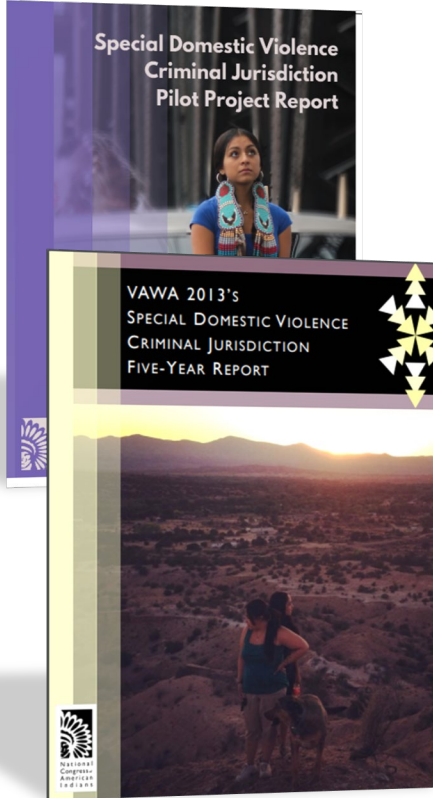


# Free One-on-One Technical Assistance

- **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 issues that may come up with the **investigation or prosecution of individual cases**.

To access any of these free technical assistance resources, please email [elabrado@ncai.org](mailto:elabrado@ncai.org).

# VAWA Special Domestic Violence Criminal Jurisdiction Resources



NCAI Home Contact Us

HOME | OVERVIEW | SDVCJ TODAY | GET STARTED | RESOURCES | EVENTS |

**VAWA 2013 Special Domestic Violence Criminal Jurisdiction**  
*Tribal Criminal Jurisdiction over Non-Indians*

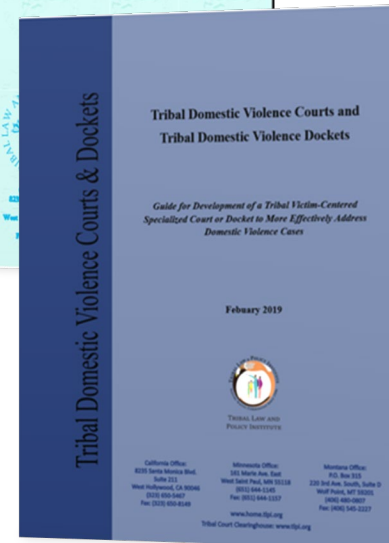
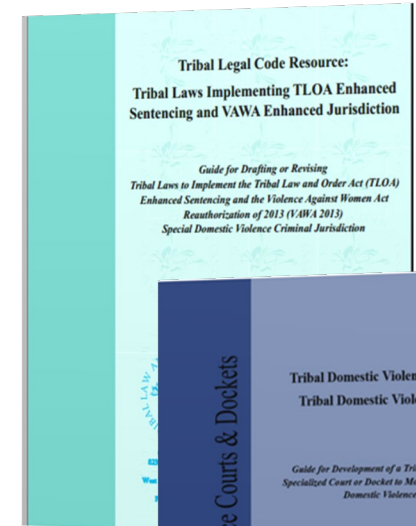
Read Full Report Here

## A Look at VAWA SDVCJ in the First Five Years

**VAWA 2013's Special Domestic Violence Criminal Jurisdiction Five-Year Report**

Read Full Report Here

**VAWA 2013's SDVCJ Five Year Report**  
 In the five years following the passage of VAWA 2013, 18 tribes began exercising Special Domestic Violence Criminal Jurisdiction. Learn about ...  
[Read Full Report Here](#)



NCAI Tribal VAWA Resources: <http://www.ncai.org/tribal-vaawa>  
 TLPI Publications: [www.Home.TLPI.org](http://www.Home.TLPI.org)



# **PORT GAMBLE S'KLALLAM TRIBE**

SDVCJ IMPLEMENTATION

The Port Gamble S'Klallam Tribe, originally known as the Nux Sklai Yem or Strong People, are descendants of the Salish people who have been well-established in the Puget Sound.

Located in Kingston, Washington in the Pacific Northwest.



# Tribal Jurisdiction Program Grant

- FY2016 - awarded a 24 month grant for planning and implementation of SDVCJ.
- FY2018 – awarded a 36-month continuation grant.





*nəx<sup>w</sup>qíyt nəx<sup>w</sup>s'káyám'*  
PORT GAMBLE S'KLALLAM TRIBE

The Tribe's Law & Order code can be found at:

<https://www.pgst.nsn.us/government/law-and-order-code>

- Code work took two (2) years per committee
- Title 15 – 42 pages in length
- Port Gamble S'Klallam Law and Order Code. Title 15 Domestic Violence was approved by Tribal Council Resolution 18-A-101 on Sept. 17, 2018. In adopting Title 15 Domestic Violence into tribal law, the Pt. Gamble S'Klallam Tribe begins its exercise of special domestic violence criminal jurisdiction over all persons within the Tribe's jurisdiction. Special DV jurisdiction is defined under 25 U.S.C. §§ 1302 through 1304 (2013).
- We continue to make amendments and revisions.



# NCAI – TA Provider

- Code review
- ITWG
- TA provider check ins
- Assistance with training opportunities

Chris Barone, Director of Court Services  
[cbarone@pgst.nsn.us](mailto:cbarone@pgst.nsn.us)

# **Grand Traverse Band SDVCJ Project**

# Our Process

## OVW Grant

- Funding
- Timeline
- Collaboration

## Preparation

- Code Development
- Court Rules
- Policy & Procedure

## Implementation

- Coordination
- Revisions
- Evolution

# OVW Grant

- Awarded first OVW Tribal Jurisdictions grant on September 1, 2016
- Four objectives:
  - 1) Strengthen GTB's tribal criminal justice system in exercising SDVCJ and identify implementation requirements, considerations, and provisions of SDVCJ
  - 2) Provide indigent criminal defendants with effective assistance of licensed defense counsel, at no cost
  - 3) Ensure jurors are summoned, selected, and instructed in criminal proceedings
  - 4) Ensure victim rights and hold perpetrators accountable in the area of domestic violence, dating violence, and sexual assault and stalking

# Utilizing Grant Funds

- Project Coordinator
- Staff Training
  - Tribal Court staff/Judges, Tribal Council, AFS/BHS Caseworkers, Police Officers, Prosecutor and staff, Victim Advocate, Shelter/MENS program provider
- Indigent Defense Counsel
- On-site Consultant/Trainer
- Code Drafting



# Grant Funded Outreach

- DV services/awareness brochure
- YouTube video (<https://youtu.be/XhWk0uarqIQ>)
- Postcards mailed to housing/ public postings
- Newsletter articles
- Outreach to government and gaming employees regarding new jury service requirements

# Financial Considerations

- Analysis of SDVCJ-eligible cases—increased caseload across system
- Public defender costs
- Jail bed contracts/inmate medical costs

# After implementing, there was a lot more to do!

- Code revisions
  - Federal DV definition vs. Tribal DV definition
  - Clarity
- Revising forms: complaint, juror questionnaires
- Improving communication with other jurisdictions
- Issues with migrating data from housing, HR, to existing jury database
- Education and awareness
- Long term considerations

# Resources

- ITWG Meetings
- ITWG Monthly Calls
- TA On-Site Visit / Calls
- Other Exercising Tribes

...Don't Be Afraid to Ask!

Anna Heiselman, SDVCJ Project Coordinator

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# New Grantee Orientation – Required Attendees

- Program Point of Contact
- Financial Point of Contact
- Tribal Leader
- Key Staff/IMOU project partner
  - *i.e.* Court Administrator, Prosecutor, In-House Counsel, Victim Services Provider, Defense Counsel, etc.



# Roles and Responsibilities

## • Program Point of Contact

- Financial Point of Contact
- Tribal Leader
- Key Staff/IMOU project partner
  - *i.e.* Court Administrator, Prosecutor, In-House Counsel, Victim Services Provider, Defense Counsel, etc.

## Responsibilities:

- Project management/lead (coordinating progress and deliverables, code drafting)
- Grant management: reporting, GAMs, etc.
- Others?

# Roles and Responsibilities (cont'd)

- Program Point of Contact
- **Financial Point of Contact**
- Tribal Leader
- Key Staff/IMOU project partner
  - *i.e.* Court Administrator, Prosecutor, In-House Counsel, Victim Services Provider, Defense Counsel, etc.

## Responsibilities:

- Manage budget
- Financial reporting/trainings
- Others?

# Roles and Responsibilities (cont'd)

- Program Point of Contact
- Financial Point of Contact
- **Tribal Leader**
- Key Staff/IMOU project partner
  - *i.e.* Court Administrator, Prosecutor, In-House Counsel, Victim Services Provider, Defense Counsel, etc.

## Responsibilities:

- Community engagement
- Assist with enacting new laws/policies
- Others?

# Roles and Responsibilities (cont'd)

- Program Point of Contact
- Financial Point of Contact
- Tribal Leader
- **Key Staff/IMOU project partner**
  - *i.e.* Court Administrator, Prosecutor, In-House Counsel, Victim Services Provider, Defense Counsel, etc.

## Responsibilities:

- Provide relevant perspective
- Assist in development of laws/policies/etc.
- Others?

# Ensuring Your Project's Success

One volunteer from each grantee:

- What is your job/profession?
- What is your role in the project?
- What is the ultimate goal of your grant?
- How can you help the grant be successful?
- How can you help the project lead?

*Remember the ultimate goal is to address the problem of violence against women (and men) in your community.*



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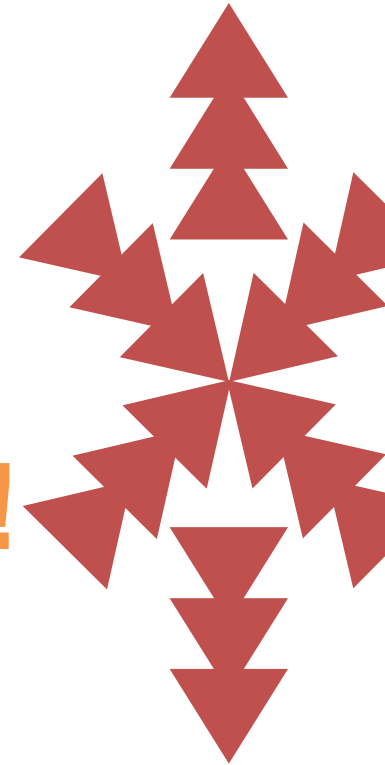
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## *Live Content Slide*

*When playing as a slideshow, this slide will display live content*

**Poll: Have you had a grant from OVW  
before?**



## *Live Content Slide*

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**Poll: What are your long term goals for your grant? (1-2 sentences)**

## *Live Content Slide*

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**Poll: What do you think will be the biggest challenge in the first year of your project?**

## *Live Content Slide*

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**Poll: Following everything you have learned at this New Grantee Orientation, are there any changes that need to be made to your project timeline, budget or goals?**

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**Poll: What is your realistic timeline to implement SDVCJ?**

## *Live Content Slide*

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**Poll: What would help you get started?**

## *Live Content Slide*

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**Poll: Are there any community concerns regarding implementing SCVCJ that you are aware of?**

## *Live Content Slide*

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**Poll: What training or resources do you think you need to be successful?**

## *Live Content Slide*

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**Poll: What does the next year look like for your role on the project? (please include your role at the beginning of your answer)**



## *Live Content Slide*

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**Poll: Would you be interested in connecting with one of the implementing tribes to see how they are doing things? At what point do you think that would be useful for you?**

## *Live Content Slide*

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**Poll: Would you be interested in having virtual “onsite” TA? What topics would you like to cover and when do you think that would be useful for you?**

## *Live Content Slide*

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**Poll: Do you have any concerns regarding your OVW funded project that you want to raise with the TA providers?**