



U.S. DEPARTMENT OF JUSTICE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA 2013) TRIBAL PILOT PROJECT

FREQUENTLY ASKED QUESTIONS (FAQS)

Congress recently passed the Violence Against Women Reauthorization Act of 2013, or “VAWA 2013.” VAWA 2013 recognizes tribes’ inherent power to exercise “special domestic violence criminal jurisdiction” (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. This new law generally takes effect on March 7, 2015, but also authorizes a voluntary “Pilot Project” to allow certain tribes to begin exercising SDVCJ sooner. After consulting with tribal officials, the U.S. Department of Justice published a Notice in the *Federal Register* on June 14, 2013, proposing procedures for this Pilot Project. These FAQs summarize the Notice. For more detail, please see the Notice itself, which is posted at <http://www.justice.gov/tribal/vawa-tribal.html>.

1. WHAT DOES VAWA 2013 SAY ABOUT THE PILOT PROJECT?

The Justice Department may grant a tribe’s request to exercise SDVCJ on an accelerated basis if, after coordinating with the Interior Department and consulting with affected tribes, it determines that the tribe’s criminal justice system has adequate safeguards in place to protect defendants’ rights, consistent with VAWA 2013. If a tribe’s request is granted, the Justice Department will consult with the tribe and set a starting date for the tribe to begin exercising SDVCJ.

2. WHAT IS THE PURPOSE OF THE PILOT PROJECT?

Because SDVCJ will become available nationwide after March 7, 2015, the primary question raised by this Pilot Project is not whether to expand the exercise of SDVCJ, but rather how best to exercise SDVCJ. The Pilot Project will support tribes in their efforts to collaboratively develop “best practices” that other tribes can consider when implementing SDVCJ in 2015 and beyond.

3. IS THERE A LIMIT ON THE NUMBER OF TRIBES THAT CAN PARTICIPATE IN THE PILOT PROJECT?

No, there is no such limit. Moreover, participation is entirely voluntary.

4. HOW IS THE PILOT PROJECT STRUCTURED?

The Pilot Project will have two phases. **Phase One** is a planning and assessment phase, which will take place in the summer and fall of 2013. **Phase Two** is the implementation phase, when tribes will formally request to begin exercising SDVCJ. Phase Two will start in late 2013 and run through March 7, 2015, with some tribes potentially prosecuting SDVCJ cases by late 2013 or early 2014.

5. WHAT HAPPENS IN PHASE ONE OF THE PILOT PROJECT?

During Phase One, the Justice Department will receive “preliminary expressions of interest” from any tribe whose elected leaders believe the tribe might be a strong candidate for participation in both phases of the Pilot Project. The Justice Department will engage in ongoing consultation with interested tribes and will also launch an Intertribal Technical-Assistance Working Group on Special Domestic Violence Criminal Jurisdiction (ITWG).

6. HOW DOES A TRIBE SUBMIT A PRELIMINARY EXPRESSION OF INTEREST IN PHASE ONE?

A tribe may submit a preliminary expression of interest, preferably as soon as possible but no later than July 15, 2013, by simply mailing or e-mailing a short letter to the Justice Department's Office of Tribal Justice. This letter also should identify the name and title of any person (or persons) the tribe authorizes to serve on the ITWG, if the tribe chooses to participate in the ITWG.

7. WHAT IS THE ITWG?

The ITWG is a voluntary working group of designated tribal representatives who may exchange views, information, and advice, peer to peer, about how tribes can best exercise SDVCJ, combat domestic violence, recognize victims' rights and safety needs, and fully protect defendants' rights. The ITWG may choose to discuss anything that its members think is relevant to implementing VAWA 2013. The June 14, 2013 *Federal Register* Notice includes a preliminary list of questions that may provide a useful starting point in identifying key issues and developing a checklist of best practices for exercising SDVCJ.

8. IS A TRIBE REQUIRED TO PARTICIPATE IN THE ITWG IN ORDER TO PARTICIPATE IN THE PILOT PROJECT?

No. ITWG participation is not mandatory, but it is strongly encouraged for any tribe that might want to exercise SDVCJ before March 7, 2015.

9. WHOM MAY A TRIBE DESIGNATE TO SERVE ON THE ITWG?

The tribe's authorized representative(s) should have the time, energy, and technical expertise to actively participate in the ITWG, which may demand a substantial time commitment. The authorized representative could be, for example, a tribal leader, trial judge, appellate judge, attorney, prosecutor, public defender, victim advocate, victim service provider, police chief, criminal justice consultant, or court administrator.

10. HOW OFTEN WILL THE ITWG MEET?

The Justice Department anticipates that the ITWG members will meet in person or by telephone, video conference, or interactive Webinar technology at least twice a month for the duration of Phase One. If funding is available, the Justice Department may support travel expenses for ITWG members to attend in-person meetings.

11. WHAT HAPPENS IN PHASE TWO OF THE PILOT PROJECT?

During Phase Two, which will commence in late 2013 with the publication of a Final Notice in the *Federal Register*, the Justice Department will accept and consider formal applications from those tribes that wish to begin exercising SDVCJ prior to March 7, 2015.

12. HOW MAY A TRIBE APPLY FOR APPROVAL TO BEGIN EXERCISING SDVCJ IN PHASE TWO?

In Phase Two, a tribe seeking Justice Department approval to begin exercising SDVCJ on an accelerated basis must complete and submit an Application Questionnaire, which will include certified answers to a list of detailed questions and relevant excerpts from the tribe's laws, rules, and policies.

13. WHAT TYPE OF QUESTIONS WILL BE ASKED IN THE APPLICATION QUESTIONNAIRE FOR PHASE TWO?

The precise substance and form of the Application Questionnaire for Phase Two have not yet been determined, and the June 14, 2013 *Federal Register* Notice invites comments (due by September 12, 2013) from tribes and other members of the public about what should be included. Generally, these questions may touch on matters such as the tribe's criminal justice system, its ongoing efforts to combat domestic violence and provide victim services and support, its history of compliance with the Indian Civil Rights Act, and the various safeguards that the tribe has put in place to protect defendants' rights.

14. IF A TRIBE DOES NOT SUBMIT A PRELIMINARY EXPRESSION OF INTEREST DURING PHASE ONE, CAN IT STILL REQUEST APPROVAL TO BEGIN EXERCISING SDVCJ IN PHASE TWO?

Yes. A preliminary expression of interest is not required, but it will greatly facilitate the Justice Department's efforts to provide timely information to the tribe, to address issues of unique concern to the tribe, and to identify, in coordination with tribal officials, those areas where the tribe may benefit from technical assistance.

15. IF A TRIBE SUBMITS A PRELIMINARY EXPRESSION OF INTEREST IN PHASE ONE, IS IT OBLIGATED TO REQUEST APPROVAL TO BEGIN EXERCISING SDVCJ IN PHASE TWO?

No. A tribe that submits a preliminary expression of interest during Phase One can later decide to wait until at least March 7, 2015, before exercising SDVCJ.

16. WHEN WILL THE PHASE TWO APPLICATION QUESTIONNAIRE BE DUE?

The Department will consider any Application Questionnaire that it receives before March 7, 2015.

17. IF A TRIBE'S REQUEST IS NOT APPROVED IN PHASE TWO, CAN IT SUBMIT A NEW APPLICATION QUESTIONNAIRE?

Yes. If funding is available, the Justice Department may provide appropriate technical assistance to a tribe that wishes to prepare and submit a revised request. The Department may also offer specific training and technical assistance to address particular needs through its grant-making components, the Office of Justice Programs (OJP), the Office on Violence Against Women (OVW), and the Office of Community-Oriented Policing Services (COPS), and may work with the ITWG to identify other tribal or intertribal resources that may assist the tribe.

18. DOES A TRIBE HAVE TO PARTICIPATE IN THE ITWG OR THE PILOT PROJECT IN ORDER TO EXERCISE SDVCJ AFTER MARCH 7, 2015?

No. After March 7, 2015, tribes that meet the requirements described in VAWA 2013 may exercise SDVCJ without Justice Department involvement.

19. HOW CAN TRIBAL OFFICIALS AND MEMBERS LEARN MORE ABOUT THE PILOT PROJECT?

The June 14, 2013 *Federal Register* Notice is posted on the Justice Department's Tribal Justice and Safety website, <http://www.justice.gov/tribal/vawa-tribal.html>. And please feel free to contact the Justice Department's Office of Tribal Justice at 202-514-8812 or OTJ@usdoj.gov.