

APPLICATION QUESTIONNAIRE FOR THE VAWA PILOT PROJECT ON TRIBAL CRIMINAL JURISDICTION

INSTRUCTIONS

Completing this Application Questionnaire is a necessary step for any Indian tribe that wishes to commence exercising special domestic violence criminal jurisdiction (SDVCJ) on an accelerated basis (i.e., prior to March 7, 2015) under the voluntary Pilot Project described in section 908(b)(2) of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). Please review this Application Questionnaire in its entirety before beginning to fill it out.

It is the Tribe's responsibility to ensure that the application is complete and accurate. To the extent that future changes in the Tribe's laws, rules, policies, or personnel render the answers incomplete or inaccurate during the Pilot Project (i.e., prior to March 7, 2015), the Tribe's authorized point of contact (POC) will have the responsibility of providing the Department of Justice with updated information.

Most questions can be answered with a "Yes" or a "No." If the Tribe wishes to provide a longer answer to a particular question, the Tribe should please feel free to attach additional pages, but on each additional page please identify by number the question(s) being answered.

Most questions expressly call for "relevant legal materials." When answering these questions, any of the following types of legal materials might be relevant:

- Tribal constitutional provisions
- Tribal code or statutory provisions
- Tribal court rules, such as tribal rules of criminal procedure, tribal rules of evidence, or tribal rules of appellate procedure
- Tribal judicial opinions
- Tribal court administrator's or clerk's manuals
- Tribal regulations
- Tribal administrative orders
- Tribal written policies
- Tribal written procedures
- A concise written description of an otherwise unwritten tribal practice (whether or not the practice is based in the Tribe's customs or traditions)

These "relevant legal materials" will form the core of the Tribe's application, so please be sure (1) to include all legal materials that are actually relevant to the question whether the Tribe's criminal justice system has adequate safeguards in place to protect defendants' rights, consistent with 25 U.S.C. 1304, and (2) not to include irrelevant materials, as doing so may slow down the review process that the Departments of Justice and the Interior are statutorily required to undertake. In determining which legal materials are relevant, the Department recommends that the Tribe review the materials created or gathered by the Intertribal Technical-Assistance Working Group on Special Domestic Violence Criminal Jurisdiction (ITWG) and the list of

substantive questions appended to the Department's June 2013 *Federal Register* notice, see 78 FR 35961, 35969-74 (June 14, 2013).

These "relevant legal materials" collected from the tribes that successfully apply to participate in Phase Two of the Pilot Project eventually will be made publicly available on the Department of Justice's website. The posted materials will serve as a resource for other tribes, including those that may elect to commence exercising SDVCJ after the Pilot Project has concluded.

The Tribe may submit "relevant legal materials" in either of two ways. First, if the particular document (e.g., a tribal code provision or court rule) is freely and publicly available on the Internet, the Tribe may provide a full legal citation to the precise material that the Tribe deems relevant to answering the question, such as a specific subsection of a tribal code provision, along with the exact URL (i.e., Web address) where the material can be found on the Internet. Second, the precise material that the Tribe deems relevant to answering the question may be attached to the Tribe's completed Application Questionnaire as an electronic copy (if the Tribe is submitting the application by e-mail) or as a paper copy (if the Tribe is submitting the application by mail).

Please send the completed Application Questionnaire, along with all attachments, by e-mail (or, if necessary, by mail) to:

Office of Tribal Justice
Department of Justice
950 Pennsylvania Avenue, NW, Room 2310
Washington, DC 20530
E-Mail: OTJ@usdoj.gov

If you have questions or need assistance, please contact Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, at (202) 514-8812 (not a toll-free number).

A tribe may apply at any time before March 7, 2015. All applications received at any time within 30 days after the publication of the Department of Justice's final notice in the *Federal Register* (i.e., by **December 30, 2013**) will be given the same priority consideration. There is no advantage to be gained by submitting an Application Questionnaire immediately after publication of the final notice. The Tribe should ensure that it completely and accurately answers all questions and attaches all relevant legal materials.

The Department of Justice will not consider an application that is incomplete, but will attempt to notify the Tribe's POC regarding any deficiencies. The Tribe may submit a revised application at any time prior to March 7, 2015. Final decisions regarding whether or when a tribe may commence exercising SDVCJ on an accelerated basis are not appealable.

THE INDIAN CIVIL RIGHTS ACT OF 1968, AS AMENDED, 25 U.S.C. §§ 1301-1304

SEC. 1301. DEFINITIONS.—For purposes of this subchapter, the term—

(1) “Indian tribe” means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;

(2) “powers of self-government” means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;

(3) “Indian court” means any Indian tribal court or court of Indian offense; and

(4) “Indian” means any person who would be subject to the jurisdiction of the United States as an Indian under section 1153, Title 18, if that person were to commit an offense listed in that section in Indian country to which that section applies.

SEC. 1302. CONSTITUTIONAL RIGHTS

(a) IN GENERAL.—No Indian tribe in exercising powers of self-government shall—

(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense (except as provided in subsection (b));

(7) (A) require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;

(B) except as provided in subparagraph (C), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 1 year or a fine of \$5,000, or both;

(C) subject to subsection (b), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 3 years or a fine of \$15,000, or both; or

(D) impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill of attainder or ex post facto law; or

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

(b) OFFENSES SUBJECT TO GREATER THAN 1-YEAR IMPRISONMENT OR A FINE GREATER THAN \$5,000.—A tribal court may subject a defendant to a term of imprisonment greater than 1 year but not to exceed 3 years for any 1 offense, or a fine greater than \$5,000 but not to exceed \$15,000, or both, if the defendant is a person accused of a criminal offense who—

(1) has been previously convicted of the same or a comparable offense by any jurisdiction in the United States; or

(2) is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or any of the States.

(c) RIGHTS OF DEFENDANTS.—In a criminal proceeding in which an Indian tribe, in exercising powers of self-government, imposes a total term of imprisonment of more than 1 year on a defendant, the Indian tribe shall—

(1) provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and

(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 United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;

(3) require that the judge presiding over the criminal proceeding—

(A) has sufficient legal training to preside over criminal proceedings; and

(B) is licensed to practice law by any jurisdiction in the United States;

(4) prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government; and

(5) maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.

(d) SENTENCES.—In the case of a defendant sentenced in accordance with subsections (b) and (c), a tribal court may require the defendant—

(1) to serve the sentence—

(A) in a tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration, in accordance with guidelines to be developed by the Bureau of Indian Affairs (in consultation with Indian tribes) not later than 180 days after July 29, 2010;

(B) in the nearest appropriate Federal facility, at the expense of the United States pursuant to the Bureau of Prisons tribal prisoner pilot program described in section 304(c) of the Tribal Law and Order Act of 2010;

(C) in a State or local government-approved detention or correctional center pursuant to an agreement between the Indian tribe and the State or local government; or

(D) in an alternative rehabilitation center of an Indian tribe; or

(2) to serve another alternative form of punishment, as determined by the tribal court judge pursuant to tribal law.

(e) DEFINITION OF OFFENSE.—In this section, the term “offense” means a violation of a criminal law.

(f) EFFECT OF SECTION.—Nothing in this section affects the obligation of the United States, or any State government that has been delegated authority by the United States, to investigate and prosecute any criminal violation in Indian country.

SEC. 1303. HABEAS CORPUS

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

SEC. 1304. TRIBAL JURISDICTION OVER CRIMES OF DOMESTIC VIOLENCE

(a) DEFINITIONS.—In this section:

(1) DATING VIOLENCE.—The term “dating violence” means 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.

(2) DOMESTIC VIOLENCE.—The term “domestic violence” means 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.

(3) INDIAN COUNTRY.—The term “Indian country” has the meaning given the term in section 1151 of Title 18.

(4) PARTICIPATING TRIBE.—The term “participating tribe” means an Indian tribe that elects to exercise special domestic violence criminal jurisdiction over the Indian country of that Indian tribe.

(5) PROTECTION ORDER.—The term “protection order”—

(A) means any injunction, restraining order, or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person; and

(B) includes any temporary or final order issued by a civil or criminal court, whether obtained by filing an independent action or as a pendent lite order in another proceeding, if the civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

(6) SPECIAL DOMESTIC VIOLENCE CRIMINAL JURISDICTION.—The term “special domestic violence criminal jurisdiction” means the criminal jurisdiction that a participating tribe may exercise under this section but could not otherwise exercise.

(7) SPOUSE OR INTIMATE PARTNER.—The term “spouse or intimate partner” has the meaning given the term in section 2266 of Title 18.

(b) NATURE OF THE CRIMINAL JURISDICTION.

(1) IN GENERAL.—Notwithstanding any other provision of law, in addition to all powers of self-government recognized and affirmed by sections 1301 and 1303 of this title, the 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.

(2) CONCURRENT JURISDICTION.—The exercise of special domestic violence criminal jurisdiction by a participating tribe shall be concurrent with the jurisdiction of the United States, of a State, or of both.

(3) APPLICABILITY.—Nothing in this section—

(A) creates or eliminates any Federal or State criminal jurisdiction over Indian country;
or

(B) affects the authority of the United States or any State government that has been delegated authority by the United States to investigate and prosecute a criminal violation in Indian country.

(4) EXCEPTIONS.

(A) VICTIM AND DEFENDANT ARE BOTH NON-INDIANS.

(i) IN GENERAL.—A participating tribe may not exercise special domestic violence criminal jurisdiction over an alleged offense if neither the defendant nor the alleged victim is an Indian.

(ii) DEFINITION OF VICTIM.—In this subparagraph and with respect to a criminal proceeding in which a participating tribe exercises special domestic violence criminal jurisdiction based on a violation of a protection order, the term “victim” means a person specifically protected by a protection order that the defendant allegedly violated.

(B) DEFENDANT LACKS TIES TO THE INDIAN TRIBE.—A participating tribe may exercise special domestic violence criminal jurisdiction over a defendant only if the defendant—

(i) resides in the Indian country of the participating tribe;

(ii) is employed in the Indian country of the participating tribe; or

(iii) is a spouse, intimate partner, or dating partner of—

(I) a member of the participating tribe; or

(II) an Indian who resides in the Indian country of the participating tribe.

(c) CRIMINAL CONDUCT.—A participating tribe may exercise special domestic violence criminal jurisdiction over a defendant for criminal conduct that falls into one or more of the following categories:

(1) DOMESTIC VIOLENCE AND DATING VIOLENCE.—An act of domestic violence or dating violence that occurs in the Indian country of the participating tribe.

(2) VIOLATIONS OF PROTECTION ORDERS.—An act that—

(A) occurs in the Indian country of the participating tribe; and

(B) violates the portion of a protection order that—

(i) 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;

(ii) was issued against the defendant;

(iii) is enforceable by the participating tribe; and

(iv) is consistent with section 2265(b) of Title 18.

(d) RIGHTS OF DEFENDANTS.—In a criminal proceeding in which a participating tribe exercises special domestic violence criminal jurisdiction, the participating tribe shall provide to the defendant—

(1) all applicable rights under this Act;

(2) if a term of imprisonment of any length may be imposed, all rights described in section 1302(c) of this title;

(3) the right to a trial by an impartial jury that is drawn from sources that—

(A) reflect a fair cross section of the community; and

(B) do not systematically exclude any distinctive group in the community, including non-Indians; and

(4) all other rights whose protection is necessary under the Constitution of the United States in order for Congress to recognize and affirm the inherent power of the participating tribe to exercise special domestic violence criminal jurisdiction over the defendant.

(e) PETITIONS TO STAY DETENTION.

(1) IN GENERAL.—A person who has filed a petition for a writ of habeas corpus in a court of the United States under section 1303 of this title may petition that court to stay further detention of that person by the participating tribe.

(2) GRANT OF STAY.—A court shall grant a stay described in paragraph (1) if the court—

(A) finds that there is a substantial likelihood that the habeas corpus petition will be granted; and

(B) after giving each alleged victim in the matter an opportunity to be heard, finds by clear and convincing evidence that under conditions imposed by the court, the petitioner is not likely to flee or pose a danger to any person or the community if released.

(3) NOTICE.—An Indian tribe that has ordered the detention of any person has a duty to timely notify such person of his rights and privileges under this subsection and under section 1303 of this title.

(f) GRANTS TO TRIBAL GOVERNMENTS.—The Attorney General may award grants to the governments of Indian tribes (or to authorized designees of those governments)—

(1) to strengthen tribal criminal justice systems to assist Indian tribes in exercising special domestic violence criminal jurisdiction, including—

(A) law enforcement (including the capacity of law enforcement or court personnel to enter information into and obtain information from national crime information databases);

(B) prosecution;

(C) trial and appellate courts;

(D) probation systems;

(E) detention and correctional facilities;

(F) alternative rehabilitation centers;

(G) culturally appropriate services and assistance for victims and their families; and

(H) criminal codes and rules of criminal procedure, appellate procedure, and evidence;

(2) 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 a crime of domestic violence or dating violence or a criminal violation of a protection order;

(3) to ensure that, in criminal proceedings in which a participating tribe exercises special domestic violence criminal jurisdiction, jurors are summoned, selected, and instructed in a manner consistent with all applicable requirements; and

(4) to accord victims of domestic violence, dating violence, and violations of protection orders 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.

(g) SUPPLEMENT, NOT SUPPLANT.—Amounts made available under this section shall supplement and not supplant any other Federal, State, tribal, or local government amounts made available to carry out activities described in this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for each of fiscal years 2014 through 2018 to carry out subsection (f) and to provide training, technical assistance, data collection, and evaluation of the criminal justice systems of participating tribes.

QUESTIONS

The Right to Trial by an Impartial Jury

1. In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe provide to the defendant 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?

Please answer "Yes" or "No" "d{ "ej genkpi "qpg"qh'j gug"y q"dqz.gu0

- YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect this right "Rrgcug"ej geniqpg"qh'j gug"y q"dqz.gu0

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.
- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

The Right to Effective Assistance of Counsel

2. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution?

Please answer "Yes" or "No" "d{ "ej genkpi "qpg"qh"vj gug"vy q"dqzgu0

- YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect this right. "Rrkcug"ej genlqpg"qh"vj gug"vy q"dqzgu0

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.
- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

The Right to Indigent Defense Counsel

3. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe provide to each indigent defendant, at no cost to the defendant, the right to the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys?

Please answer "Yes" or "No" "d{ "ej gemkpi "qpg"qh\j gug"vy q"dqz.gu0

- YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect this right. "Rrgcug"ej gemqpg"qh\j gug"vy q"dqz.gu0

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.
- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

The Right to Indigent Defense Counsel (cont'd)

4. For each licensed defense attorney that the Tribe anticipates will be appointed to represent an indigent defendant in a criminal proceeding in which the Tribe will exercise SDVCJ during the Pilot Project (i.e., prior to March 7, 2015) and in which a term of imprisonment of any length may be imposed, please provide a list of all jurisdictions in which the defense attorney is licensed to practice law.

Please provide a separate list of jurisdictions for each attorney (who can be identified either by name or anonymously as “Attorney 1,” “Attorney 2,” etc.).

The Right to a Law-Trained, Licensed Judge

5. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe provide to the defendant the right to a criminal proceeding presided over by a judge who has sufficient legal training to preside over criminal proceedings and is licensed to practice law by any jurisdiction in the United States?

Please answer "Yes" or "No" "d{ "ej genkpi "qpg"qh'jy gug"y q"dqz.gu0

- YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect this right "Rrgcug'ej geniqpg"qh'jy gug"y q"dqz.gu0

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.
- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

The Right to a Law-Trained, Licensed Judge (cont'd)

6. For each judge that the Tribe anticipates will preside over a criminal proceeding in which the Tribe will exercise SDVCJ during the Pilot Project (i.e., prior to March 7, 2015) and in which a term of imprisonment of any length may be imposed, please provide (a) a brief description of the judge's legal training to preside over criminal proceedings, and (b) a list of all jurisdictions in which that judge is licensed to practice law.

Please provide a separate answer for each judge (who can be identified either by name or anonymously as "Judge 1," "Judge 2," etc.).

The Right to Publicly Available Laws and Rules

7. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe, prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government?

Please answer "Yes" or "No" "d{ "ej gemkpi "qpg"qh'j gug"y q"dqz.gu0

- YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect this right "Rrgcug"ej gem'qpg"qh'j gug"y q"dqz.gu0

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.
- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

The Right to Records of the Criminal Proceeding

8. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding?

Please answer "Yes" or "No" "d{ "ej genkpi "qpg"qh"vj gug"vy q"dqzgu0

- YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect this right0"Rrhcug"ej genlqpg"qh"vj gug"vy q"dqzgu0

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.
- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

The Right to Timely Notice of Federal Habeas Corpus Rights and Privileges

9. Will the Tribe provide to each person detained by order of the Tribe timely notice of the person’s rights and privileges to file in a court of the United States a petition for a writ of habeas corpus under 25 U.S.C. 1303 and a petition to stay further detention under 25 U.S.C. 1304(e)?

Please answer “Yes” or “No” "d{ "ej genkpi "qpg"qh'vj gug'vy q"dqzgu0

- YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right "v"ko grf "pqvek. "Rngcug"ej genlqpg"qh'vj gug'vy q"dqzgu0

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.
- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

Other Rights Protected by the Indian Civil Rights Act of 1968

10. In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe provide to the defendant all applicable rights under the Indian Civil Rights Act of 1968, as amended, including but not limited to:

- (a) the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, and not to be subjected to a warrant unless it was issued upon probable cause, was supported by oath or affirmation, and particularly described the place to be searched and the person or thing to be seized;
- (b) the right not to be twice put in jeopardy for the same offense;
- (c) the right not to be compelled to be a witness against himself;
- (d) the right to a speedy and public trial;
- (e) the right to be informed of the nature and cause of the accusation;
- (f) the right to be confronted with the witnesses against him;
- (g) the right to have compulsory process for obtaining witnesses in his favor;
- (h) the right to be free from excessive bail;
- (i) the right to be free from excessive fines;
- (j) the right against cruel and unusual punishments;
- (k) the right to the equal protection of the Tribe's laws;
- (l) the right not to be deprived of liberty or property without due process of law;
- (m) the right not to be subjected to an ex post facto law; and
- (n) the right to a trial by jury of not less than six persons?

Please respond on the next page.

Other Rights Protected by the Indian Civil Rights Act of 1968 (cont'd)

In response to Question 10:

Please answer "Yes" or "No" "d{ "ej genkpi "qpg"qh'vj gug"vy q"dqzgu0

YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect vj gug't ki j u0'Rrncug"ej gen'qpg"qh'vj gug"vy q"dqzgu0

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.**

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material, and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).**

Tribal Criminal Jurisdiction

11. Will the Tribe exercise SDVCJ over a defendant only for criminal conduct constituting, within the meaning of 25 U.S.C. 1304, either (a) an act of domestic violence or dating violence that occurs in the Indian country of the Tribe, or (b) an act that occurs in the Indian country of the Tribe and violates the portion of a protection order that (1) 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; (2) was issued against the defendant; (3) is enforceable by the Tribe; and (4) is consistent with 18 U.S.C. 2265(b) * ?

Please answer “Yes” or “No” "d{ "ej genkpi "qpg"qh'jy gug"vy q"dqz.gu0

- YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right "Rrgcug'ej geniqpg"qh'jy gug"vy q"dqz.gu0'

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.
- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

* A protection order issued by a state, tribal, or territorial court is consistent with 18 U.S.C. 2265(b) if “such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and . . . reasonable notice and 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 State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent’s due process rights.” 18 U.S.C. 2265(b).

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12. In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe convict a non-Indian defendant at trial only if the Tribe proves that the alleged victim is an Indian?

""Please answer "Yes" or "No""d{ 'ej genkpi "qpg"qh'j gug'ly q"dqz.gu0

- YES NO

Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect this right. "Rrgcug'ej gen'qpg"qh'j gug'ly q"dqz.gu0

- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.
- For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

Tribal Criminal Jurisdiction (cont'd)

13. In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe convict a defendant at trial only if the Tribe proves that the defendant resides in the Indian country of the Tribe; is employed in the Indian country of the Tribe; or is a spouse, intimate partner, or dating partner either of a member of the Tribe or of an Indian who resides in the Indian country of the Tribe?

Please answer "Yes" or "No" "d{ "ej genkpi "qpg"qh"j gug"y q"dqzgu0

YES

NO

Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect this right "Rrgcug"ej genkpi "qpg"qh"j gug"y q"dqzgu."

For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for full legal citation to the precise material and an exact URL (i.e., Web address) where the material can be found on the Internet.

For each of the legal materials (e.g., a tribal code provision or court rule) that the Tribe deems relevant to answering this question, please see below for the full legal citation to the precise material and please see attached for a copy of the material (preferabl an electronic copy, otherwise a paper copy).

Other Considerations

14. This final question is **optional**. If the Tribe believes it would be helpful to the Departments of Justice and the Interior in fulfilling their statutory duties related to the Pilot Project, the Tribe may provide any additional information or relevant legal materials addressing the Tribe's readiness to commence exercising SDVCJ on an accelerated basis while protecting defendants' rights, consistent with 25 U.S.C. 1304. Additional information or relevant legal materials may focus on any of the following topics:
- (a) the Tribe's history of compliance with the Indian Civil Rights Act of 1968, as amended;
 - (b) the Tribe's recent history, following the 2010 enactment of 25 U.S.C. 1302(b)-(c), of imposing total terms of imprisonment of more than one year;
 - (c) the Tribe's formal or informal policies for coordinating with federal or state criminal investigators and prosecutors in cases where the Tribe may have concurrent criminal jurisdiction;
 - (d) the Tribe's efforts to combat domestic violence and dating violence, including issuing and enforcing protection orders;
 - (e) the Tribe's efforts to protect the rights and safety of victims of domestic violence and dating violence;
 - (f) the Tribe's methods for summoning, selecting, and instructing jurors;
 - (g) the Tribe's efforts to strengthen law enforcement, prosecution, trial and appellate courts, probation systems, detention and correctional facilities, alternative rehabilitation centers, culturally appropriate services and assistance for victims and their families, criminal codes, rules of criminal procedure, rules of appellate procedure, rules of evidence, and the capacity of law enforcement or court personnel to enter information into and obtain information from national crime information databases;
 - (h) the Tribe's needs for training, technical assistance, data collection, and evaluation of the Tribe's criminal justice system;
 - (i) the date on which the Tribe would like to commence exercising SDVCJ under the Pilot Project;
 - (j) the Tribe's plans to notify the public before commencing to exercise SDVCJ; and
 - (k) any other pertinent topic that the Tribe would like the Departments of Justice and the Interior to consider when reviewing the Tribe's Application Questionnaire.

Please respond on the next page.

Other Considerations (cont'd)

In response to Question 14:

CERTIFICATIONS

The completeness and accuracy of this Application Questionnaire must be certified by (1) the chief executive officer of the Tribe (e.g., the tribal chairperson, president, governor, principal chief, or other equivalent official); (2) the chief judicial officer of the Tribe (e.g., the tribal chief justice, chief judge, or other equivalent official); (3) the chief legal officer of the Tribe (e.g., the tribal attorney general, attorney, general counsel, or other equivalent official); and (4) the person authorized by the Tribe's governing body to be the Tribe's point of contact (POC) for the Department of Justice in this application process. The POC may be either one of the three officers listed above or a fourth individual selected by the Tribe's governing body. Each of these individuals must sign and certify the Application Questionnaire below.

Certification of the Tribe's Chief Executive Officer

1. I am the chief executive officer of _____ [enter the name of the requesting tribe] ("the Tribe").
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301-1304, including the amendments made by VAWA 2013.
3. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the answers to this Application Questionnaire are complete and accurate.
4. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the criminal justice system of the Tribe has adequate safeguards in place to protect defendants' rights, consistent with 25 U.S.C. 1304.

Signature: _____

Date: _____

Name: _____

Title or Position: _____

Address: _____

City/State/Zip: _____

Phone: _____

FAX: _____

E-mail: _____

Certification of the Tribe's Chief Judicial Officer

1. I am the chief judicial officer of _____ [enter the name of the requesting tribe] (“the Tribe”).
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301-1304, including the amendments made by VAWA 2013.
3. I certify that I have read the final notice on the “Pilot Project for Tribal Jurisdiction over Crimes of Domestic Violence” published by the Department of Justice in the *Federal Register* on November 29, 2013.
4. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the answers to this Application Questionnaire are complete and accurate.
5. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the criminal justice system of the Tribe has adequate safeguards in place to protect defendants’ rights, consistent with 25 U.S.C. 1304.

Signature: _____

Date: _____

Name: _____

Title or Position: _____

Address: _____

City/State/Zip: _____

Phone: _____

FAX: _____

E-mail: _____

Certification of the Tribe's Chief Legal Officer

1. I am the chief legal officer of _____ [enter the name of the requesting tribe] (“the Tribe”).
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301-1304, including the amendments made by VAWA 2013.
3. I certify that I have read the final notice on the “Pilot Project for Tribal Jurisdiction over Crimes of Domestic Violence” published by the Department of Justice in the *Federal Register* on November 29, 2013.
4. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the answers to this Application Questionnaire are complete and accurate.
5. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the criminal justice system of the Tribe has adequate safeguards in place to protect defendants’ rights, consistent with 25 U.S.C. 1304.

Signature: _____

Date: _____

Name: _____

Title or Position: _____

Address: _____

City/State/Zip: _____

Phone: _____

FAX: _____

E-mail: _____

Certification of the Tribe's Point of Contact

1. I have been authorized by the governing body of _____ [enter the name of the requesting tribe] ("the Tribe") to serve as the Tribe's point of contact (POC) with the Department of Justice for purposes of the VAWA Pilot Project.
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301-1304, including the amendments made by VAWA 2013.
3. I certify that I have read the final notice on the "Pilot Project for Tribal Jurisdiction over Crimes of Domestic Violence" published by the Department of Justice in the *Federal Register* on November 29, 2013.
4. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the answers to this Application Questionnaire are complete and accurate.
5. I certify that, to assist the Department of Justice in fulfilling its statutory duty to determine whether the criminal justice system of the Tribe has adequate safeguards in place to protect defendants' rights, consistent with 25 U.S.C. 1304, I will make best efforts, for the remainder of the Pilot Project's duration (i.e., prior to March 7, 2015), to promptly answer written or oral questions from the Departments of Justice and the Interior about the Tribe's criminal justice system; to promptly update any answers to this Application Questionnaire if they become incomplete, inaccurate, or outdated; to promptly fix any omissions in the Application Questionnaire; and to promptly submit to the Department of Justice any additions, deletions, or corrections to the Application Questionnaire.

Signature: _____

Date: _____

Name: _____

Title or Position: _____

Address: _____

City/State/Zip: _____

Phone: _____

FAX: _____

E-mail: _____