

TRIBAL PROTECTION ORDERS IN ALASKA

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Alaska Native Women's Resource Center
And
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Native Alliance Against Violence
Domestic Violence Program Seminole Nation, OK



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STRENGTHENING TRIBAL RESPONSE TO END VIOLENCE AGAINST NATIVE WOMEN INITIATIVE

Here are some friendly housekeeping reminders:

1. Your control panel will appear on your user screen
2. All attendees will be muted during this presentation
3. Once you call into the meeting call line, enter your pin#
4. Use the questions box on your panel to submit questions and responses
5. To minimize the control panel, use the orange arrow at the top left panel

PRESENTATION OUTLINE

FIVE PART Discussion:

- PART I: Strengthening Tribal Response to Violence Against Native Women – An Overview
- Part II: Title IX of Violence Against Women's Act: What is it and why is it relevant?
- PART III: Protection Orders
- PART IV: Tribal Courts Jurisdiction to Issue and Enforce Orders in Alaska
- Part V: Resources

PART I: STRENGTHENING TRIBAL RESPONSE TO VIOLENCE AGAINST NATIVE WOMEN INITIATIVE OVERVIEW



WHAT IS THE INITIATIVE?

The Initiative, lead by the Tribal Law & Policy Institute, along with project partners, provide training, technical assistance, and resources to tribal governments and tribal communities not currently receiving Office on Violence Against Women (OVW) grant funding to enhance victim safety and more effectively address offender accountability.

www.TribalResponse.org

56.1% of American Indian/Alaska Native (AI/AN) women have experienced sexual violence and 55.5 % have experienced physical violence by an intimate partner.

National Institute of Justice
Research Report: Violence Against
American Indian and Alaska
Native Women and Men. U.S.
Department of Justice (2016)



An estimated 24.5% of American Indian/Alaska Native women experienced stalking during their lifetimes.

Prevalence and Characteristics of
Sexual Violence, Stalking, and
Intimate Partner Violence
Victimization — National Intimate
Partner and Sexual Violence
Survey, United States, 2011



On some reservations in the United States, the murder rate of Native women is 10 times higher than in the rest of the nation.

Bachman, R. (2008). Violence
Against American Indian and
Alaska Native Women and the
Criminal Justice Response: What
Is Known.



Violence Against Native Women



www.law.und.edu/npilc/TJI



www.AKNWRC.org



www.TribalResponse.org



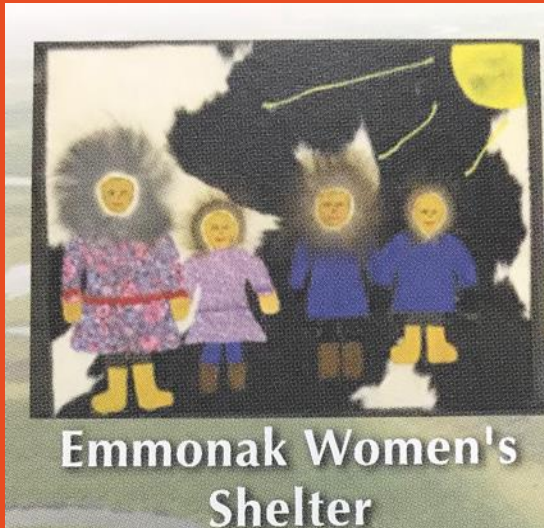
www.Home.TLPI.org



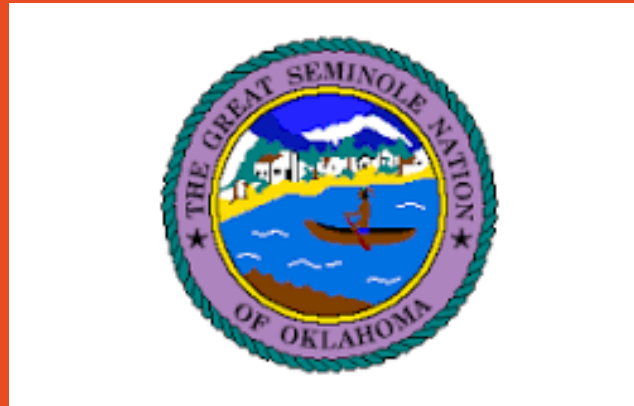
www.ATCEV.org

Training and Technical Assistance Providers

Direct Service Providers



www.EmmonakShelter.org



www.sno-nsn.gov/services/dv



www.OKNAAV.org

Training and Technical Assistance Providers

TRAINING AVAILABLE ON FOLLOWING TOPICS

- Coordinated Community Response (CCR) Development in Tribal Communities
- Sexual Assault Response Team (SART) Development in Tribal Communities
- Shelter and Safe Housing
- Advocacy in Tribal Communities – Role of Advocates
- Legal Response Focusing on Tribal Protection Orders
- Resources

www.tribalresponse.org



Who can receive Training and Technical Assistance?

- Capacity building training and technical assistance support are available to any tribal government or tribal community that is not currently receiving Office on Violence Against Women (OVW) grant funding to strengthen tribal response to domestic violence, sexual assault, stalking, and teen dating violence.
- There is no cost for technical assistance, training, or resources to any tribal government or tribal community not currently receiving Office on Violence Against Women (OVW) grant funding.
- There is a request form for Training and Technical Assistance available on our website.

www.tribalresponse.org





PART II: TITLE IX OF VIOLENCE AGAINST WOMEN ACT

Tribal Title created
in 2005: “Safety
for Indian Women”

SEC. 901 FINDINGS

- Included important findings regarding American Indian and Alaska Natives, including:
- Disproportionate rates of Violence
- Sexual violence
- Domestic Violence
- Murder
- Trust responsibility of Federal government



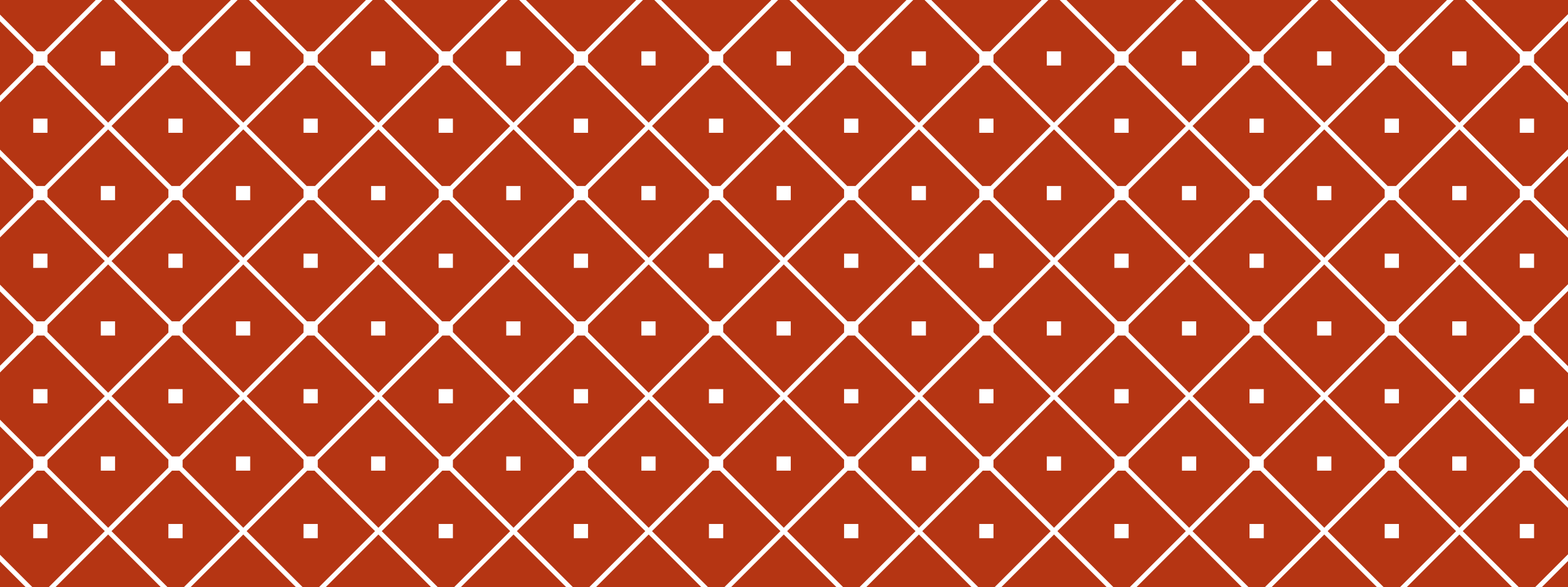
WHY IS IT NECESSARY TO
UNDERSTAND LEGAL ASPECTS
THAT IMPACT ALASKA NATIVES?

WHY SHOULD YOU KNOW
ABOUT TITLE IX?



BECAUSE...

- Tribes in Alaska have a different history with the federal government than the lower 48 state tribes and it is important to have a fundamental understanding of the law that impacts their communities.
- In working with Alaska Tribes, it is important to understand how Title IX of VAWA is involved in this area
- This information recognizes that there are alarming disparities with American Indian and Alaska Natives and the impact on local response.



PART III: PROTECTION ORDERS

BENEFITS OF PROTECTION ORDERS

- Sets forth clear commands from the Court
- Issued with victim safety in mind
- Sets parameters of acceptable behavior for the batterer as determined by the Court
- Takes some power and control away from the batterer
- Used to hold batterers accountable

WHAT IS A PROTECTION ORDER?

➤ VAWA's definition:

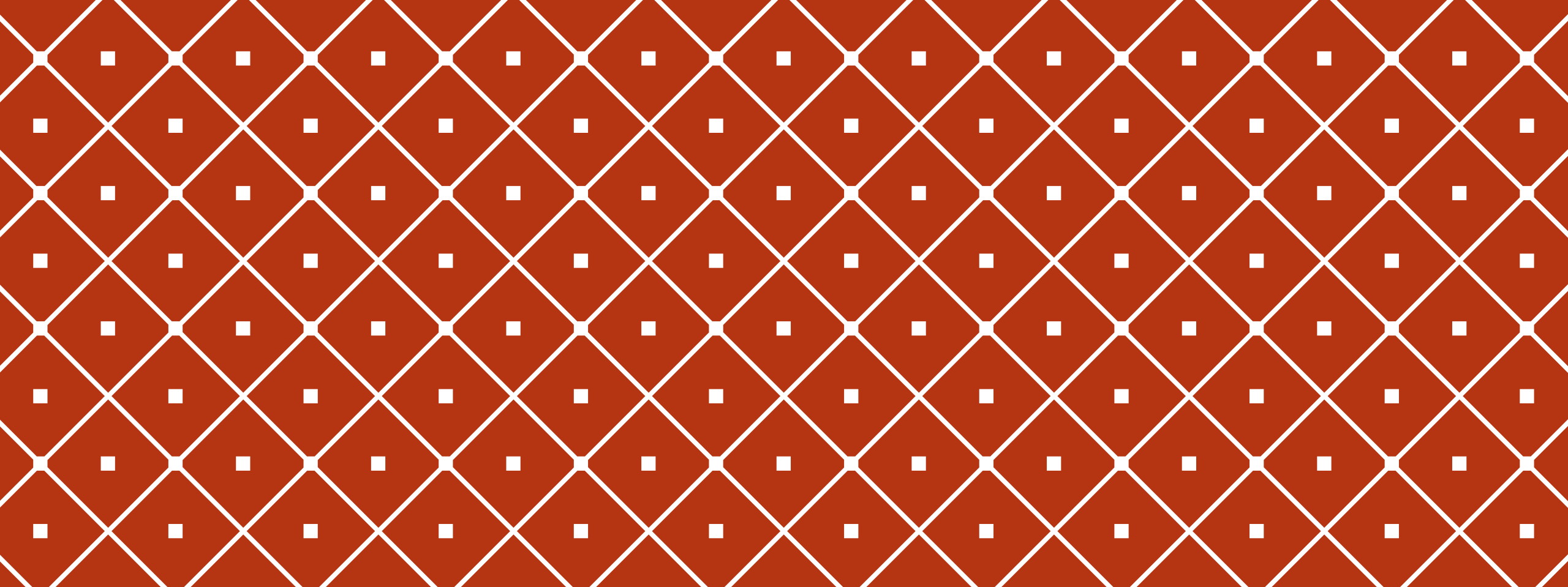
- Any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or behalf of a person seeking protection;

VAWA DEFINITION CONT'D

- Any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining order, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.
- 18 USC 2266(5)(A),(B)

CONTENTS

- Order should contain:
 - Specific, concrete language
 - Meet all the requirements of Tribal law, VAWA, Full Faith and Credit, and federal jurisdictional law
 - Language that allows officer to enforce
 - Language that allows your court or another court to enforce



PART IV: TRIBAL COURTS IN ALASKA

JURISDICTION TO ISSUE AND ENFORCE PROTECTION ORDERS IN ALASKA

STOPPING THE VIOLENCE AND HOLDING ABUSERS ACCOUNTABLE

- Current Local Tribal/Village-based Options
- Current State Options

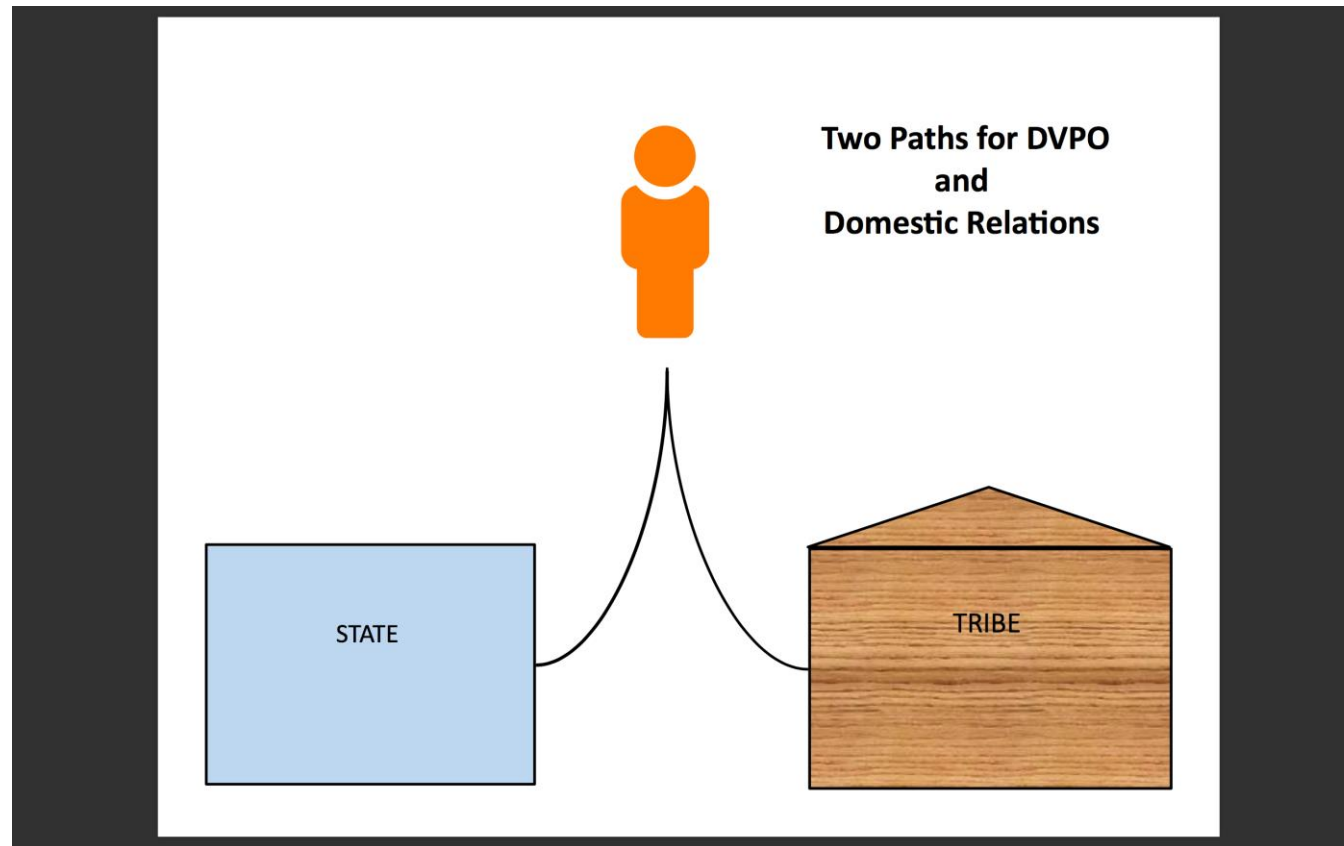
JURISDICTION

“(e) Tribal Court Jurisdiction.—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.*”

➤ 18 USC 2265

PATHWAYS

ADOPTED FROM ALS (ALASKA LEGAL SERVICES)/CCTHITA (CENTRAL COUNCIL
TLINGIT HAIDA INDIAN TRIBES OF ALASKA) PRESENTATION



TRIBAL COURTS PLAY A VITAL ROLE IN THE PROTECTION AND PRESERVATION OF TRIBAL SOVEREIGNTY. TRIBAL COURTS PROTECT AND PRESERVE SOVEREIGNTY BY:

- Providing a forum for the interpretation of tribal laws, rules and policies in a manner that is consistent with the values, customs and traditions of the tribe;
- Preventing the need for involvement of federal or state courts in the tribal dispute resolution process for those causes of action arising within the tribal community; and
- Providing a forum for the enforcement of orders from outside jurisdictions as part of the larger legal landscape in the United States.

OPPORTUNITY FOR TRIBAL JUSTICE

- Stresses relationships and responsibilities Reciprocal responsibilities
- Individual dignity
- Opportunity to be heard
- Holistic
- Rooted in Alaska Native peoples' voices, languages, and teachings



SOUTHEAST TRADITIONAL TRIBAL VALUES

“OUR WAY OF LIFE”

- Discipline and Obedience to the Traditions of our Ancestors
- Respect for Self, Elders and Others
- Respect for Nature and Property
- Patience
- Pride in Family, Clan and Traditions is found in Love, Loyalty and Generosity
- Be Strong in Mind, Body and Spirit
- Humor
- Hold Each Other Up
- Listen Well and with Respect
- Speak with Care
- We are Stewards of the Air, Land and Sea
- Reverence for Our Creator
- Live in Peace and Harmony
- Be Strong and Have Courage

18 U.S. CODE § 2265. FULL FAITH AND CREDIT GIVEN TO PROTECTION ORDERS

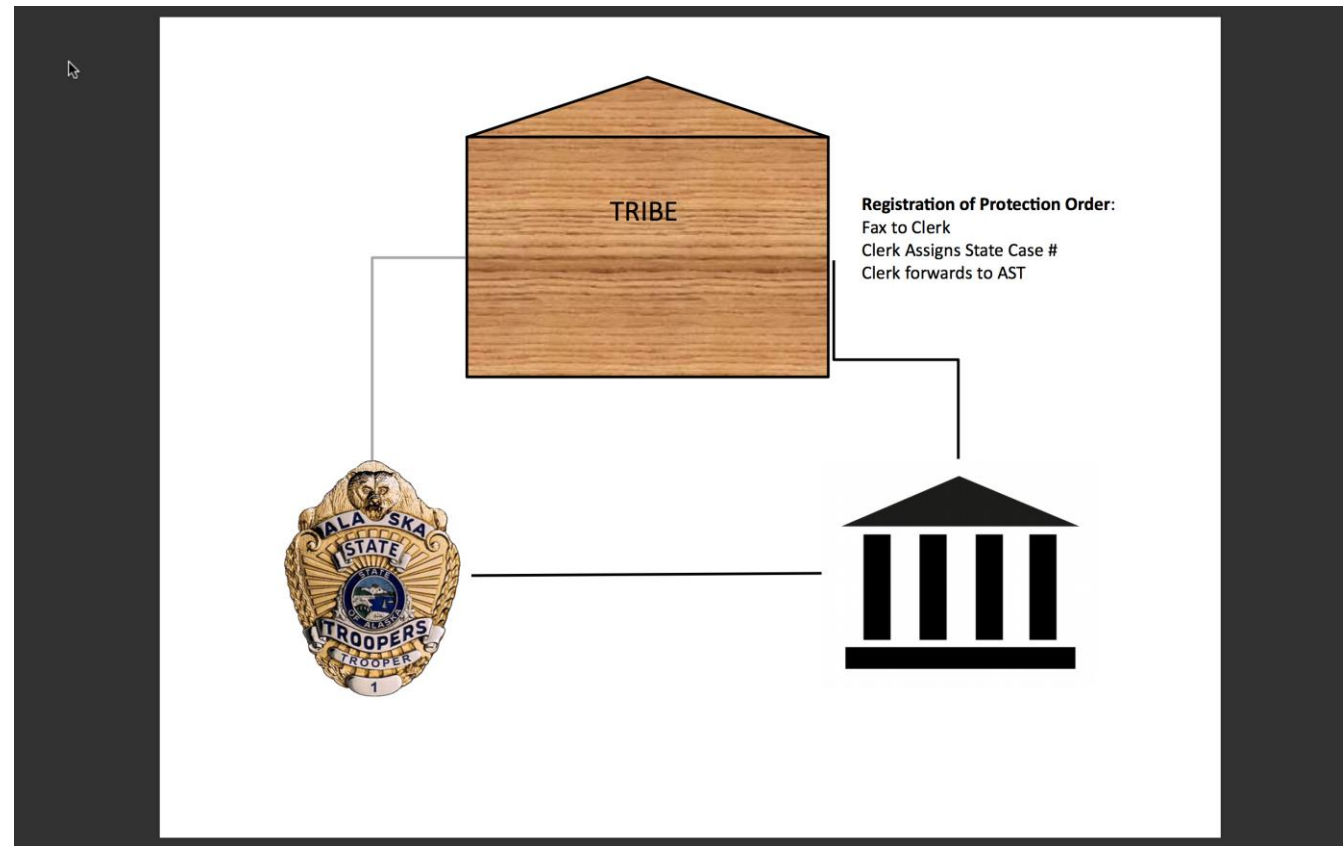
- **(a) Full Faith and Credit.**—Any protection order issued that is consistent with subsection (b) of this section by the court of one State, *Indian tribe*, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory [1] as if it were the order of the enforcing State or tribe.
- **(b) Protection Order.**—A protection order issued by a State, *tribal*, or territorial court is consistent with this subsection if—
 - (1) such court has jurisdiction over the parties and matter under the law of such State, *Indian tribe*, or territory; and
 - (2) 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.

ALASKA COURT SYSTEM CIVIL RULE 5.1(B) FILING FOREIGN DOMESTIC VIOLENCE PROTECTIVE ORDERS BY FACSIMILE TRANSMISSION

- Notwithstanding any general administrative orders concerning fax filings issued under (a) of this rule, a court shall accept faxed certified copies of domestic violence protective orders issued by other states, tribes, or territories if (1) the order is faxed by the issuing court, and (2) the facsimile contains a certification that the faxed order is a true and correct copy of the original order on file with the issuing court.
- **AS 18.66.140. FILING AND ENFORCEMENT OF PROTECTIVE ORDERS ISSUED IN OTHER STATES.**
- (a) A certified copy of an unexpired protective order issued in another jurisdiction may be filed with the clerk of court in any judicial district in this state.
- (b) A protective order filed in accordance with (a) of this section has the same effect and must be enforced in the same manner as a protective order issued by a court of this state.
- (c) When a protective order is filed with the court under this section, the court shall have the order delivered to the appropriate local law enforcement agency for entry into the central registry of protective orders under AS 18.65.540 .

ENFORCEMENT: REGISTRATION IS OPTIONAL AND IS NOT REQUIRED— VALID WITHOUT

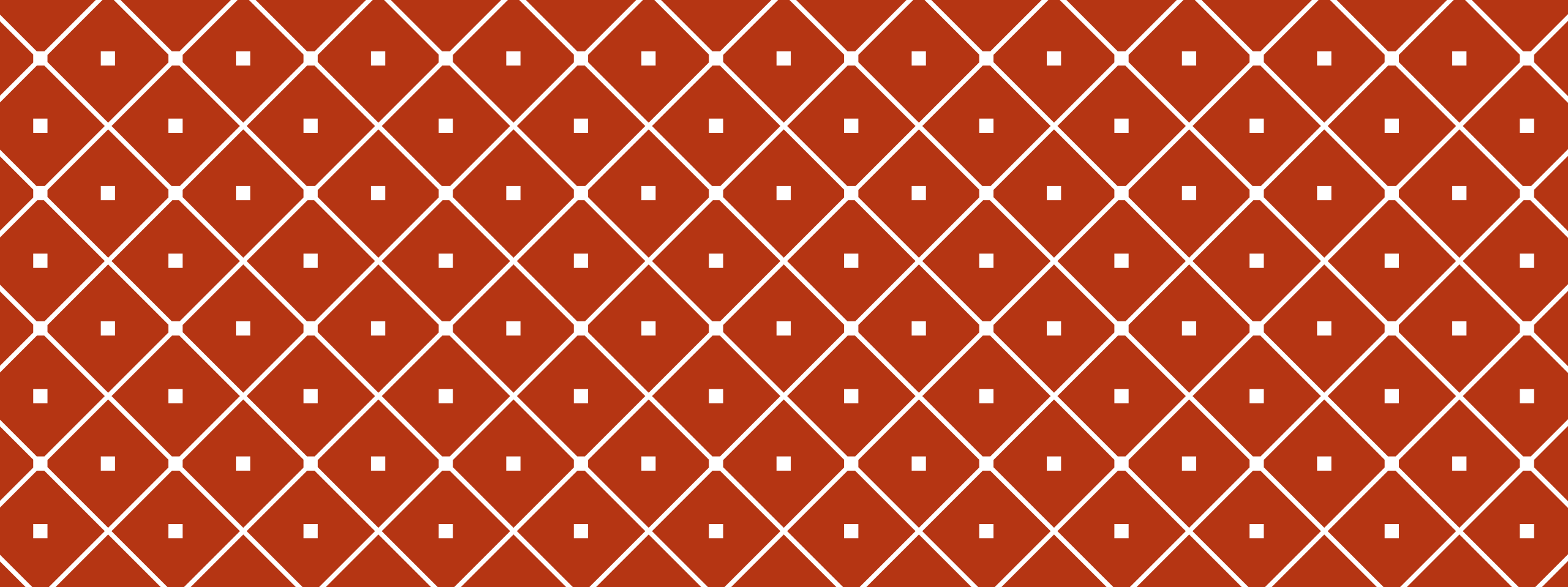
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HAIDA INDIAN TRIBES OF ALASKA) PRESENTATION



ENFORCEMENT CONSIDERATIONS

- NEARLY 40-% OF OUR COMMUNITIES LACK LAW ENFORCEMENT
- LAW ENFORCEMENT CAN BE HOURS OR DAYS AWAY– WHO WILL ENFORCE THE ORDER?
- WHAT IS THE SAFETY PLAN?
 - ENCOURAGE A LEADERSHIP DISCUSSION ON THIS ISSUE IF YOUR COMMUNITY DOES NOT HAVE LAW ENFORCEMENT WITHIN YOUR COMMUNITY





PART V: RESOURCES

ALASKA SPECIFIC RESOURCES ONLINE

- Alaska State Tribal Court Toolbox:
<https://public.courts.alaska.gov/web/forms/docs/tribal-court-toolbox.pdf>
- Tribal Protection Order Resources: <http://tribalprotectionorder.org>
- Alaska Legal Services: <https://alaskatribes.org/tribal-court-proceedings/>
- Alaska Tribal Court Directory: <http://alaskatribes.org/wp-content/uploads/2018/12/Draft-TC-Directory-v.10-4.pdf>
- Alaska Tribes: <https://alaskatribes.org/>

FULL FAITH AND CREDIT RESOURCES

- <http://www.ncjfcj.org/resource-library/publications/civil-protection-orders-guide-improving-practice> Civil Protection Orders: A Guide to Improving Practice (CPO Guide)
- <http://www.bwjp.org/resource-center/resource-results/engaging-in-a-best-practice-assessment-of-the-civil-protection-order-system.html> Tool to assess your Protection Order System and CPO Guide
- <http://www.ncjfcj.org/resource-library/publications/passport-safety> Passport to Safety: Full Faith and Credit – A Judge’s Bench Guide
- <http://www.ncjfcj.org/resource-library/publications/domestic-violence> National Council of Juvenile and Family Court Judges domestic violence publications



QUESTIONS?

Next Steps to Request Training and Technical Assistance



Please email: TribalResponse@tlpi.org or

Bonnie Clairmont at bonnie@tlpi.org

Or visit www.TribalResponse.org and fill out our Training and Technical Assistance Request Form



www.TribalResponse.org

Features of the website include:

- Critical resources and tips for strengthening responses that prioritize victim safety & offender accountability
- Resources for tribal protection orders
- Critical resources for victim safety planning
- Resources to design and implement community education and awareness
- Information on community and systems-based victim advocacy
- Resources to increase tribal capacity to develop and sustain shelter and safe housing



FEEL FREE TO CONTACT US AT AKNWRC

Alaska Native Women's Resource Center

P.O. Box 80382

Fairbanks, Alaska 99708

Ph 907/328-3990

Fax 1-866-287-8330

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www.aknwrc.org

**THANK YOU FOR
ATTENDING
TODAYS
WEBINAR!**



QUYANA TSENAA-'II GUNALCHÉESH DOGINDIHN HÁW'AA DOIKSHIN ANNA-BASSE MASI-CHO

