



Unique Legal Issues for Indigenous Survivors in Urban Areas

Red Wind Consulting, Inc.

Native women must contend with yet (another) fact more difficult to notice or tell about: If in public and private mind, Indians as a group are invisible in America, then Indian women are non-existent.

-Allen, 1986

1

Jurisdiction

Where a crime of domestic violence, sexual assault, and stalking has occurred determines the jurisdiction of specific systems that respond. If the crime occurred on tribal land, the jurisdiction is Tribal. Advocates may have to work within multiple jurisdictions to holistically respond to AI/AN survivors.

2

Tribal Protection Order

A victim might come to live in an urban setting with a Tribal Protection Order which should be honored in an urban setting because of Full Faith and Credit afforded by VAWA. If the local jurisdiction does not uphold the TPO, contact BIA victims assistant, the US attorney general, chief prosecutor or clerk of courts for guidance.

3

Indian Child Welfare Act

ICWA governs where an AI/AN child is placed when being removed from a home. This law was enacted to protect AI/AN children due to their unique political status and appropriate cultural considerations. This law, however, may present challenges specific to children and custody with AI/AN abusers or victims. For more comprehensive resources visit: <https://www.nicwa.org/about-icwa/>

Considerations for interventions with Native survivors in urban areas:

- Historic mistrust of institutions;
- Impacts of inter-generational trauma;
- Victim safety that might reach back to their homelands;
- Draw from other resources that will inform advocacy work within the urban Indian community.

Building the capacity to work with unique legal issues for Urban Native survivors will include:

1. Learning about the histories of violence against Indigenous persons in the area;
2. Legal services that understand or can access knowledge of tribal law;
3. Recognize the fundamental principle of trust building;
4. Recognize and respect Native styles of communication; and
5. Integrate Native participation into planning and research.