Catching up with the Twenty-First Century: How Article IX, Chapter One of the Law and Order Codes of the Shoshone and Arapaho Tribes Should be Updated to Better Protect Domestic Violence Victims

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Catching Up with the Twenty-First Century: How Article IX, Chapter One of the Law and Order Codes of the Shoshone and Arapaho Tribes Should be Updated to Better Protect Domestic Violence Victims

Paige Hammer*

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I. INTRODUCTION

Domestic violence was once considered a private affair rather than a phenomenon worthy of research and attention.1 Recent research shattered the veil of privacy revealing shocking statistics.2 In 2014, the Bureau of Justice Statistics released a Criminal Victimization report, which found that 4.2 per 1,000 people age twelve or older were victims of domestic violence (approximately 1.1 million people)—a higher rate than rapes/sexual assaults, robberies, aggravated assaults, and serious violent crimes involving injury during the same year.4 While the

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3 TRUMAN & LANGDON, supra note 2, at 3.

4 Id.
prevalence of domestic violence is appalling, this statistic is likely even higher as “[s]urveys of interpersonal violence suggest that the police are less likely to be notified when the offender is a partner or other family member than when the offender is a stranger.”

While rates of domestic violence are fairly high nationwide, rates of domestic violence among American Indians are alarmingly higher. Between 1992 and 2002, the Bureau of Justice Statistics studied crime relating to American Indians and found they experience a per capita rate of violence twice that of the average United States resident population. Consistent with that statistic, the rate of “violent victimization among American Indian women” was more than double that among all women [in the United States].

A Center for Disease Control Morbidity Report, which compared the adverse health conditions and health risk behaviors associated with intimate partner violence, also confirmed higher rates of lifetime domestic violence among American Indian women. Of the American Indian women surveyed, 39% admitted to having a lifetime history of intimate partner violence victimization. In contrast, only 26.8% of white women surveyed admitted to the same. This data indicates that not only is there a high rate of domestic violence occurring in the United States, but that American Indian women are experiencing it at an even higher rate.

While the circumstances surrounding domestic violence and American Indians appear grim, there is an option available to aid victims on the Shoshone and Arapaho Reservation: civil protection orders. Civil protection orders are court-issued injunctions “for the purpose of preventing violence, threatening

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5 Felon & Pare, supra note 2, at 5.
6 While the term “American” can include those from North, Central and South America, this comment will use the term to only refer to people who live in the United States.
8 The author fully recognizes men and women both can be victims of domestic violence. However, for the purpose of continuity, this comment will use female nouns and pronouns when describing victims of domestic violence.
9 Perry, supra note 7, at v.
11 Id.
12 Id.
acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person . . . ." 14 However, not all protection order statutes provide equal protections for victims, as some statutes are woefully insufficient in providing an adequate level of protection.15 Inconsistencies in available protections can increase the risk for many victims of domestic violence by making protection orders more difficult to enforce outside the originating jurisdiction.16 The purpose of this comment is to encourage revisions to the Shoshone and Arapaho Law and Order Code, Title IX, Chapter One on the Wind River Indian Reservation (WRIR) in Wyoming. As written, the tribal protection order statutes invite negative repercussions on the same people the statutes are meant to protect.17 As a result, the statutes provide far less protections than protection orders issued by other jurisdictions.

The comment begins with a description of civil protection orders, including the four main dimensions of a domestic violence protection order.18 Then, the background section provides a brief recitation of the general history of the WRIR, followed by a description of the protection order statutes on the reservation.19 Finally, the analysis section highlights the strengths and deficiencies of the statutes, and also provides possible solutions to correct the deficiencies in order to grant better protection for domestic violence victims on the WRIR.20

II. BACKGROUND

A. Protection Orders

A protection order is generated through the civil side of the court system when an alleged victim of domestic violence files a petition asking the court to grant him or her a protection order against a specific person.21 The main objective of a domestic violence protection order is to restrain the abuser and to protect the “partner who is the target of the abuse.”22 It serves to notify the offender of the specific behavior prohibited.23 Furthermore, protection orders can increase

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14 See 18 U.S.C. § 2266(5) (defining “protection order” as it relates to federal domestic violence and stalking statutes); Author’s note: This definition describes both criminal and civil protection orders. However, this comment will only discuss civil protection orders.
15 S&A LOC, Title IX Domestic Relations Code § 9.
16 See infra notes 88–118 and accompanying text.
17 See infra notes 68–128 and accompanying text.
18 See infra notes 21–43 and accompanying text.
19 See infra notes 44–67 and accompanying text.
20 See infra notes 68–128 and accompanying text.
22 SCHNEIDER, supra note 1, at 221.
23 Id.
police responsiveness to the requests of the victim for assistance, which can be a catalyst for empowerment and autonomy for the victim. Generally, protection orders have four main dimensions: the type of relationship that qualifies for a protection order, the type of behavior a protection order protects against, the relief a court grants the petitioner, and the geographic area where the protection order is enforceable.

The first dimension concerns the type of relationship that qualifies for an intervention. Many statutes require the relationship between the victim and the abuser to be that of "household members." Thus, protection orders can provide protection not only to legally married spouses, but can further protect against former dating partners and parent/adult children relationships.

The second dimension is what the petitioner must show the court to procure a protection order and the type of behavior a protection order protects against. In most jurisdictions, a victim of domestic violence must swear under oath or submit a sworn affidavit detailing specific facts showing the alleged abuse. Upon receipt of a petition, a court may immediately issue an immediate ex parte temporary order of protection if the petitioner demonstrates the existence of a danger of future domestic abuse. If the court grants an ex parte temporary order of protection to the petitioner, a hearing is set immediately, typically within seventy-two hours, so the court may decide if a final order of protection should be granted. In Wyoming, for example, if a court determines at the hearing that an act of domestic violence occurred, the court may then enter an order of protection against the respondent for up to one year.

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25 SCHNEIDER, supra note 1, at 226.
26 Id.
28 Id. § 35-21-102(a)(iv) ("'Household members' includes (A) persons married to each other; (B) persons living with each other as if married; (C) persons formerly married to each other; (D) persons formerly living with each other as if married; (E) parents and their adult children; (F) other adults sharing common living quarters; (G) persons who are the parents of a child but who are not living with each other; and (H) persons who are in, or have been in, a dating relationship").
29 SCHNEIDER, supra note 1, at 227.
30 E.g., Wyo. Stat. Ann. § 35-21-103(b) (2016) ("The petition shall be made under oath or be accompanied by a sworn affidavit setting out specific facts showing the alleged domestic abuse.")
31 Id. § 35-21-104(a)(i).
32 Id. § 35-21-104(a)(iii).
33 Id. § 35-21-105(a), 106(b) (specifying "an order of protection granted by the court shall be effective for a fixed period of time not to exceed one (1) year.").
A protection order itself specifies what actions or behavior from which the respondent must refrain. For example, Wyoming protection orders protect petitioners against “domestic abuse,” broadly defined to include multiple forms of behavior, such as physical abuse, threats of physical abuse, or placing a household member in reasonable fear of imminent physical harm.

The third dimension is the relief the court can grant the petitioner. Courts typically have broad discretion to provide various forms of relief. For example, a court can order the respondent household member to refrain from abusing the petitioner, a form of minimal relief. In addition, it can grant sole possession of the household to the petitioner, award temporary custody of the children, and/or require the respondent to participate in counseling or other treatments, a more severe form of relief.

The final dimension is the geographic area where the protection order is enforceable. Pursuant to section 2265(a) of the Violence Against Women Act (VAWA):

Any protection order issued . . . 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 State, Indian tribal government or Territory [territory] as if it were the order of the enforcing State, Indian tribe, or territory.

The explicit effect of VAWA is that a receiving jurisdiction, whether it is another town, state or tribal land, must honor a protection order from the original

34 Id. § 35-21-105(a) (“The order shall specifically describe the behavior that the court has ordered the respondent to do or refrain from doing.”).

35 Id. § 35-21-102(a)(iii) (defining “domestic abuse” as “the occurrence of one (1) or more of the following acts by a household member but does not include acts of self defense: (A) Physically abusing, threatening to physically abuse, attempting to cause or causing physical harm or acts which unreasonably restrain the personal liberty of any household member; (B) Placing a household member in reasonable fear of imminent physical harm; or (C) Causing a household member to engage involuntarily in sexual activity by force, threat of force or duress.”).

36 SCHNEIDER, supra note 1, at 228.


38 Id.

39 Id.

40 SCHNEIDER, supra note 1, at 228.

jurisdiction and give the protection order "full faith and credit." Although protection orders on the WRIR consist of the same four dimensions, and offer some protections, they are largely insufficient to adequately protect victims of domestic violence because the WRIR Domestic Relations Code lacks the full range of protections that other jurisdictions provide.

B. Protection Orders on the Wind River Indian Reservation

To better understand the process and effectiveness of protection orders on the WRIR, it is essential to first consider its physical and political make-up. The reservation, located just north of Lander, Wyoming (the county seat) and just west of Riverton, Wyoming, is home to two different tribes: the Eastern Shoshone and the Northern Arapaho. The Eastern Shoshone tribe first arrived to the area in the 1600s and the Northern Arapaho tribe joined the Eastern Shoshone in 1878 when the federal government forced the two enemy tribes onto one reservation. Currently, the two tribes continue to share the 2.2 million acre reservation.

In addition to sharing the reservation, the tribes also share a governing document: the Law and Order Codes of the Shoshone and Arapaho Tribes (LOC). These statutes govern the residents, businesses, entities, and visitors of the WRIR. By virtue of being federally recognized tribes, the two tribes possess "certain inherent rights of self-government (i.e., tribal sovereignty)" which allows them to govern themselves through the LOC, including the ability to issue protection orders. These statutes are completely separate and apart from

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45 Id.
46 Id.
47 S&A LOC § 1-2-3(2)(a) (stating over whom the Tribal Courts of the Shoshone and Arapaho Tribes have personal jurisdiction).
48 Id.
49 Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs Notice, 81 Fed. Reg. 26826, 26827-28 (May 4, 2016).
51 S&A LOC § 9-1-3(1).
the state court system, and are only applicable on tribal land and in tribal court.\textsuperscript{52} Only the Joint Tribal Business Council, a now defunct entity, may amend the LOC.\textsuperscript{53} Title IX of the LOC is entitled the Domestic Relations Code concerned with Orders of Protection, Termination of Parental Rights, Adoptions, etc.\textsuperscript{54} Chapter One focuses solely on protection orders.\textsuperscript{55}

Chapter One first lays out the requirements for obtaining a protection order: a completed petition form, a sworn affidavit setting out the specific facts showing the alleged domestic abuse, and a twenty-five dollar fee.\textsuperscript{56} However, if the petitioner can demonstrate a financial hardship, the petitioner may request a fee waiver.\textsuperscript{57} Furthermore, a victim is not required to file for annulment, separation, or divorce in order to obtain a protection order.\textsuperscript{58}

Once a petition is filed, the tribal court immediately grants an ex parte temporary protection order if the facts detailed in the affidavit indicate a real danger of continued abuse.\textsuperscript{59} The respondent is then served notice of a hearing on the "question of continuing the order" which the court schedules within seventy-two hours after the granting of the ex parte order.\textsuperscript{60}

After a hearing, if the tribal court finds that an act of domestic violence occurred, it will enter a final order of protection directing the respondent to refrain from abusing the petitioner and other household members.\textsuperscript{61} Additionally, the court may prohibit the respondent from contacting the petitioner, abducting or concealing any child in the petitioner's custody, transferring or disposing of the petitioner's property or any joint property between the two parties, and it may order the respondent to undergo appropriate counseling for up to ninety days, or any other forms of relief the court deems necessary for the protection of the petitioner.\textsuperscript{62} The court may also grant sole possession of the residence to the

\textsuperscript{52} Id. § 1-2-2(1) ("The jurisdiction of the Tribal Courts of the Shoshone and Arapaho Tribes shall extend to the territory within the Wind River Indian Reservation . . . "); id. § 1-3-1(1) (2004) ("[The] Shoshone and Arapaho Tribal Court [shall] handle all matters of a judicial nature within the jurisdiction of the Shoshone and Arapaho Tribes . . . ").
\textsuperscript{53} Id. § 1-1-5(1).
\textsuperscript{54} Id. § 9.
\textsuperscript{55} Id. § 9-1.
\textsuperscript{56} Id. § 9-1-1.
\textsuperscript{57} Id.
\textsuperscript{58} Id. § 9-1-3(1).
\textsuperscript{59} Id. § 9-1-1(3).
\textsuperscript{60} Id. § 9-1-2(1)(a).
\textsuperscript{61} Id. § 9-1-2(1)(b)–(c).
\textsuperscript{62} Id. § 9-1-3(1)(c)–(g).
petitioner for the term of the protection order and award temporary custody of any children, when appropriate. 63

Finally, Chapter One specifies that a protection order is effective for three months. 64 Additionally, the petitioner may submit a motion requesting a three-month extension. 65 In their current form, the statutes are not without value to those wanting to apply for a protection order. 66 Yet, there is vast room for improvement. 67

III. ANALYSIS

A. Strengths of Title IX, Chapter One of the LOC

While this comment is critical of the protection order statutes on the WRIR, the statutes are not entirely devoid of positive attributes that benefit a victim. One strength of the statutes is that petitioners are not “required to file for annulment, separation or divorce as a prerequisite to obtaining an order of protection.” 68 Therefore, if married, the victim has a level of autonomy to choose whether she wants to legally end the marriage. She may well enough want to maintain the marriage but pursue the protection order as a way to stop the violence. 69

Additionally, the court “shall make available standard petition forms with instructions for completion to be used by petitioners not represented by counsel.” 70 Since a petitioner can fill it out on her own, without legal assistance, she does not have to hire an attorney to assist with the filing. This is imperative because a high percentage of the population on the reservation lives below the poverty line. 71 Even if a victim wanted to hire an attorney, she may not be able to afford one.

63 Id. § 9-1-3(1)(a)-(b).
64 Id. § 9-1-4(2).
65 Id. § 9-1-4(2).
66 See infra notes 68–87 and accompanying text.
67 See infra notes 88–118 and accompanying text.
69 SCHNEIDER, supra note 1, at 51.
70 S&A LOC § 9-1-1(5) (referring to the second section labeled (5)).
71 Black & MJ Breiding, supra note 10 (In addition to experiencing domestic violence at a higher rate, American Indian women are also disproportionately affected by poverty); Census 2000 Data for 539 Tribes, U. S. CENSUS BUREAU, http://www.census.gov/aiian/census_2000/census_2000_data_for_539_tribes.html (last visited Oct. 29, 2015) (in the 2000 U.S. Census, 43.6% of Northern Arapaho tribe members lived below the poverty level and 42.8% of Eastern Shoshone tribe members lived below the poverty line.). Poverty is important to note because for battered women leaving or ending an abusive relationship exposes them to greater financial hardship. This financial hardship makes it much harder for a woman to be able to leave an abusive, and often violent, situation.
Therefore, the petition forms include instructions, which allow the petitioner to fill in the blanks and provide the correct information, so the court may issue an ex parte order. Perhaps more importantly, this statute provides her with a certain amount of agency that she may not have been able to experience before. At the core of domestic violence is the ability for an abuser to use different techniques to maintain power and control over his victim. This statute allows victims the opportunity to take back some of the power and control they lost in the abusive relationship. For victims, obtaining a protection order is an empowering experience as it entails asserting one’s own needs and taking a stand against the abuser.

Under section 9-1-2(1)(b) of the LOC, the petitioner must serve the protection order and the notice of the hearing on the respondent immediately after the ex parte order is issued. However, the statute does not specify whether law enforcement must serve the alleged perpetrator solely on the reservation or if other law enforcement entities can serve him outside of reservation lands. Fortunately, Chapter 2 Rule 1(2)(c) of the Shoshone and Arapaho Rules of Civil Procedure states that, “service upon a person otherwise subject to the jurisdiction of the Shoshone and Arapaho Court may be made anywhere in the United States; otherwise, service shall be made within the exterior boundaries of the Wind River Indian Reservation.” Together the statute and the rule mean that process must be served on a respondent, but that service is not limited to the boundaries of the WRIR. While a respondent may try to dodge service by relocating onto state land, a properly organized plan with county officials will make dodging service more difficult than if process can only be served on the WRIR.

Shoshone and Arapaho Rule of Court Number CV-103: Waiver of Licensing Requirements, provides another resource to victims as they proceed through the process of obtaining a protection order. It states, “[e]mployees of the Circle of Respect [a women's shelter located in Ethete, Wyoming] and any Domestic Violence Program of the State of Wyoming shall not be required to obtain a license to represent victims of domestic violence in the Shoshone and Arapahoe Tribal Court.” This exception allows domestic violence victims to have an advocate in the courtroom to promote her needs and interests.

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72 SCHNEIDER, supra note 1, at 61.
73 Goldfarb, supra note 24, at 1515.
74 S&A LOC § 9-1-2(1)(b).
75 Id.
78 S&A R. COURT CV-103.
79 Id.
Another rule of the tribal court helpful to victims is Shoshone and Arapaho Rule of Court Number CV-109: Recognition and Enforcement of Foreign Orders of Protection.\textsuperscript{80} As mentioned previously, VAWA requires all states, tribes, and territories give full faith and credit to a protection order issued in other states, tribes, and territories.\textsuperscript{81} Rule 109 provides the explicit directive for the clerk of tribal court to maintain a registry for any certified copy of a foreign protection order filed with the court.\textsuperscript{82} Also, subsection (c) states that the tribal court must "enforce all provisions of a registered foreign order for protection whether or not such relief is available in [the tribal] court."\textsuperscript{83} The tribal court allows the victim peace of mind knowing that their protection order is valid on tribal lands by permitting victims to register their foreign protection orders with the clerk of court, and upholding the order's provisions.

Finally, Chapter One of Title IX of the LOC dictates that an ex parte temporary order of protection is immediately granted "if it clearly appears from the specific facts shown by the affidavit or by the petition that there exists a real danger of further domestic violence."\textsuperscript{84} If the victim can meet this minimum showing, then the court grants the protection order.\textsuperscript{85}

The protection order statutes on the WRIR have certain strengths which help victims. The statutes allow a petitioner to determine whether she wants to continue her marriage without jeopardizing her chances of obtaining a protection order.\textsuperscript{86} Furthermore, she may retain counsel through various programs throughout the State without her advocate needing to be licensed in tribal court.\textsuperscript{87} While there are strengths to these statutes, there are also very distinct weaknesses that need to be addressed.

\textbf{B. Deficiencies of Title IX, Chapter One of the LOC and Related Solutions}

While the skeleton of Chapter One is generally helpful to victims of domestic violence seeking help from the government, there are a number of places where modifications to the statute would better serve victims. These modifications would correct both procedural and substantive deficiencies, which have negative impacts on victims of domestic violence.

\textsuperscript{80} S&A R. COURT CV-109.
\textsuperscript{81} 18 U.S.C. § 2265(a) (2012).
\textsuperscript{82} S&A R. CV-109(a)(1), (b)(1).
\textsuperscript{83} Id. CV-109(c).
\textsuperscript{84} S&A LOC § 9-1-2(1)(a).
\textsuperscript{85} Id.
\textsuperscript{86} S&A LOC § 9-1-1(3).
\textsuperscript{87} S&A R. COURT CV-103.
1. Procedural Deficiencies and Related Solutions

The statutes require a filing fee of $25 which can be inhibiting to petitioners when considering the poverty statistics raised previously. For a victim of domestic violence living below the poverty line, a $25 filing fee is significant. In turn, the fee could encourage her not to pursue a protection order, leaving her with few, if any, options. In contrast to the LOC, the majority of neighboring jurisdictions do not require the victim to remit any payment.

As mentioned earlier, the filing fee may be waived if the petitioner completes a waiver form. In addition, she must include “an affidavit to the effect that the petitioner is unable to pay the costs of the proceeding, [then] the court may order that the petitioner be permitted to proceed as a poor person without payment of court costs.” However, filling out an additional affidavit to request the waiver is another step, which may deter potential victims from seeking help. Further, there is no guarantee that the court will waive the fee, since ultimately, the court has the discretion to determine whether the victim can pay the filing fee.

The one true exception to the filing fee is Rule of Court number CV-102, which states that all complaints initiated by the Circle of Respect or by any domestic violence program of the State of Wyoming shall have the filing fee waived without having to prove indigence. However, in order for this exception to apply, the victim needs to reach out to the Circle of Respect or another domestic violence program and receive assistance from one of the organizations in filing the petition. Victims may not know about this exception or how to reach out to those groups for help. In fact, even an intentional search for specific information on the Circle of Respect did not yield clear answers. A simple solution to this issue is for the tribes to remove any requirement of a fee and make the process free for the petitioner.

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88 S&A LOC § 9-1-1(4); see supra note 71.


90 See supra note 57 and accompanying text.

91 S&A LOC § 9-1-1(5) (referring to the first section labeled (5)).

92 Id.


94 Id.

95 At the time of writing, author conducted an online search to find contact information, but could not even confirm the Circle of Respect was still in operation. A national domestic violence shelter website listed only a post office box and a telephone number (Circle of Respect. WOMEN'S SHELTERS: A NATIONWIDE DIRECTORY OF SHELTERS FOR WOMEN, https://www.womenshelters.org/det/circle_of_respect_82520 (last visited July 31, 2016)).
Furthermore, the forms a petitioner must complete are not accessible on the Shoshone & Arapaho Tribal Court’s website. For some, finding the forms online themselves, printing and filling them out on their own is easier than having to sit at the courthouse during working hours. Having the petition available online would make the process easier for victims to obtain a protection order.

Another issue is the maximum amount of time a protection order is effective before it requires renewal. The duration of a protection order is not to exceed three months. A three-month period is not long enough to be truly effective for the victim. The probability of violence, including lethal violence, increases after the victim leaves the abuser. Separation will increase, not decrease, the violence and many women who are killed by their partners are killed after the separation has taken place. This is known as separation abuse. Indeed, this period of increased risk can continue for years. The court can extend the order for good cause for another three-month period. However, requiring a victim to request an extension of a pre-existing protection order every three months is a hardship that may force victims to not even come back to court to request the extension. Therefore, three months may not be enough time for a victim of domestic violence to believe she is adequately protected through the enforcement of the protection order.

Comparatively, in other jurisdictions, protection orders are effective for a much longer period of time. For example, Idaho and Nebraska grant protection orders for up to a year before a victim must seek the renewal of the order. Some states have codified protection orders that are effective "for an appropriate time period as directed by the court or be made permanent . . ." The tribes could easily amend the Domestic Relations Code to increase the duration of a protection order from three months to a year, thereby more effectively providing protection to those seeking protection orders. The statutes arguably have significant procedural deficiencies. However, a myriad of substantive deficiencies also exist.

97 S&A LOC § 9-1-4(2).
98 Id.
100 Id. at 2139.
101 Id. at 2138.
103 S&A LOC § 9-1-4(2).
2. Substantive Deficiencies and Related Solutions

LOC § 9-1-3(l)(g) only allows the court to order a respondent to attend counseling for a maximum of three months. Unfortunately, limiting treatment to such a short duration is not enough time to affect change with the abuser or within the relationship. In 2013, the Washington State Institute for Public Policy released a comparative study to determine which domestic violence offender programs across the United States were most successful in reducing recidivism. Of the eleven programs compared, all but two programs required the offender to attend treatment for more than ninety days. One of the more successful programs required offenders to attend forty hours of treatment over twenty-six weeks—over twice the amount of time allowed for a protection order on the WRIR. Thus, extending the period of time a court can order a respondent to attend counseling, beyond three months, would more successfully combat domestic violence and serve to help victims of domestic violence on the reservation.

Another deficiency in Chapter One of Title IX is that the court is not required to keep the address of the petitioner (and any children living in the same home) confidential. Filing for a protection order may increase the risk of violence against the petitioner in the form of retaliation for trying to terminate the power and control the respondent has over the petitioner. If the respondent does retaliate, the victim's contact information is not explicitly kept confidential. By filing for a protection order, the petitioner has essentially handed over her location to the person she is trying to avoid altogether. Amending the statute to keep the address of the petitioner confidential is an easy way to protect the petitioner and cure this deficiency.

Moreover, protection orders from the WRIR are not entered into any database, or statewide registry, for other law enforcement agencies to see and potentially enforce. The only two entities that receive a copy of a protection order are the

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107 S&A LOC § 9-1-3(l)(g).
109 Id.
110 Id. at 5.
111 Id.
112 S&A LOC § 9.
113 Id. § 9-1-2(1)(b).
114 Id. § 9.
115 Id. § 9-1-4(1).
clerk of court for the tribe and tribal law enforcement. Other jurisdictions are required to enforce a tribal protection order. However, if those jurisdictions do not have access to the protection order issued by the tribal court, enforcement of the protection order is more difficult. Unless a victim is willing to forward the tribal protection order to the local state court, no outside law enforcement agency will know that it exists and will not be able to adequately protect the victim.

The lack of protection order registries for tribal protection orders is a deficiency with a simple solution. The State of Wyoming requires the Governor to establish a statewide registry of domestic violence protection orders so that prosecutors, dispatchers, the courts, the Department of Corrections, and law enforcement officers can view the information twenty-four hours a day, seven days a week. The tribe could file a copy of each protection order with the Wyoming registry and register all intertribal protection orders. Outside agencies, even those outside of Wyoming, could access and see the order which would allow these agencies to enforce the order.

These solutions exist to help cure the deficiencies in the protection order statutes on the WRIR. Fortunately, most of them are as simple as amending the LOC. In addition to amendments to the statute, the implementation of Special Domestic Violence Criminal Jurisdiction on the WRIR is another tactic for addressing domestic violence and providing more resources to domestic violence victims.

C. Special Domestic Violence Criminal Jurisdiction

The 2013 reauthorization of VAWA included the recognition of Special Domestic Violence Criminal Jurisdiction (SDVCJ). SDVCJ is a tribe’s inherent power to exercise jurisdiction over certain defendants, regardless of Indian/non-Indian status, “who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country.” This special jurisdiction allows a tribe a limited window to investigate, prosecute, convict, and sentence Indians and non-Indians for domestic violence-related crimes. SDVCJ is extremely

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116 Id.
118 WYO. STAT. ANN. § 35-21-110(a)–(d) (2016).
120 Id.
121 Id.
important because approximately 60% of American Indian victims of violent crime described the offender as white.¹²²

Five tribes from Arizona, Montana, Oregon, South Dakota, and Washington participated in the Pilot Project, which implemented the SDVCJ prior to its official entry into force on March 7, 2015.¹²³ After approximately six months, the Confederated Tribes of the Umatilla Indian Reservation (Oregon) recorded six arrests with four convictions.¹²⁴ The Pascua Yaqui Tribe (Arizona) noted twenty-one SDVCJ cases, including fifteen non-Indian males, and had six total convictions.¹²⁵

While data is limited, it appears that the SDVCJ has increased prosecutions and brought more justice to the reservations.¹²⁶ After March 7, 2015, all tribes are allowed to exercise SDVCJ and the WRIR could benefit as it would allow the reservation the opportunity to prosecute more non-Indian offenders.¹²⁷ Fortunately, the National Congress of American Indians provides multiple resources for tribes who are interested in pursuing SDVCJ and offers assistance in beginning the process.¹²⁸ The SDVCJ option does not require an amendment to the LOC, yet provides more protection and justice to victims, regardless of the abuser’s ethnicity.

IV. CONCLUSION

The protection order statutes on the WRIR provide the basic level of protection for domestic violence victims, but the tribes have an opportunity to improve the statutes to better protect domestic violence victims. Indeed, the LOC has not been revised since 2004.¹²⁹ While few, the positive aspects of the statutes include instructions allowing the victim the opportunity to fill out the petition, the immediate granting of a petition if the petitioner can show the potential for future violence by the respondent, and serving the respondent with the order immediately.¹³⁰

¹²⁴ Id.
¹²⁵ Id.
¹²⁶ Id.
¹²⁷ Id.
¹²⁸ Id.
¹³⁰ See supra notes 68–87 and accompanying text.
Despite the positive aspects of the LOC, tribes can do more to improve it.\textsuperscript{131} Some improvements include taking advantage of Wyoming's protection order registry and exercising Special Domestic Violence Criminal Jurisdiction over Non-Indians.\textsuperscript{132}

Currently, the tribes must decide whether they wish to further support victims and provide them with more resources, or if they wish to continue with the resources they have and limit potential protections for victims. The LOC may only "be amended by the Joint Tribal Business Council."\textsuperscript{133} Therefore, until the Joint Tribal Business Council is reestablished, or another entity named as an amending body, the tribes will be unable to fully support victims and provide them with the resources necessary to promote safety. Inaction by the tribes to solve this situation perpetuates the negative aspects of the current statutes onto domestic violence victims, and continues to do a disservice to them.

\textsuperscript{131} See supra notes 88–128 and accompanying text.
\textsuperscript{132} See supra notes 88–128 and accompanying text.
\textsuperscript{133} SHOSHONE & ARAPAHO LAW AND ORDER CODE § 1-1-5(1) (2004).