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Effectiveness of the Special Domestic Violence Criminal Jurisdiction of the Tulalip Tribe

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Walden University

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Walden University

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Marie Natrall

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Abstract

Effectiveness of the Special Domestic Violence Criminal Jurisdiction of the Tulalip Tribe

by

Marie Natrall

MPA, Evergreen State College, 2012

BA, Evergreen State College, 2010

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Public Policy and Administration

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Abstract

Native American women have been historically disadvantaged as victims of domestic violence. These hardships were primarily due to a policy that limited Native American tribes' criminal jurisdiction over non-Native individuals on Native American reservations. This policy changed with the passage of the Special Domestic Violence Criminal Jurisdiction (SDVCJ) in 2013. This qualitative case study employed the social construction of target populations conceptual framework to explore the experiences of tribal officials and judicial officers of the Tulalip tribe. Data were collected through semi-structured interviews with 9 key informants selected through purposeful sampling on the basis of their role within the Tulalip tribe's SDVCJ. Data were sorted, organized, and coded by hand using a deductive thematic analysis to identify key themes. The key themes were leadership, protection against domestic violence, healing, accountability, training, and increased work. These conclusions may be useful to extend protection to individuals not protected under SDVCJ, which include Native American children, men, and elders who may also be victims of domestic violence.

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Dedication

I would like to dedicate this study to the memory of my grandparents, Norman and Mildred Natrall, who had the greatest impact on my life and were advocates of achieving a higher education. I would not be doing this if it weren't for their guidance, teaching, and wisdom that only grandparents can provide.

I would also like to dedicate my research in memory of my sister, Lisa Natrall, who passed away on February 4th, 2019 at the age of 35. Although there was an age gap between us, that didn't stop us from being close. She had a great sense of humor and loved life and people, especially family. She is an example of a strong woman who despite the health challenges she faced on a daily basis always had a smile on her face and the gift to gab like no other. My baby sister, Lisa, I hope you are looking down on us and remember that not a day goes by that we don't miss you and cherish the time we had with you on this earth. Although this time was brief, we will always remember the good times we had and the love we shared.

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Thank you to my friend, Dr. Derrick Jones, who has been a constant support and has always offered words of encouragement. It has been most beneficial to know a fellow student who knows the process of what it takes to complete a dissertation.

I would like to thank my aunt, Lorraine Natrall, for always being there as a support my life, especially throughout my academic journey. Finally, to my son, Jonah Natrall, no words can express how being your mother has created meaning and purpose in my life, especially the inspiration to set a good example for you to follow. I love you son.

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Chapter 1: Introduction to the Study

The Special Domestic Violence Criminal Jurisdiction (SDVCJ) 2013 passed with the Violence Against Women Act Reauthorization Act (VAWA) of 2013, which authorizes Native American tribes criminal jurisdiction over non-Natives who commit domestic violence on reservations. Research on the Tulalip tribe of the SDVCJ is significant because there is little literature on the effectiveness of this law in decreasing domestic violence against Tulalip tribal women on the Tulalip reservation. Findings from this study may provide insight about what works legally at the Tulalip tribal court and what needs amending to improve protection against domestic violence for Tulalip tribal women.

This chapter discusses the SDVCJ and the statistics of domestic violence of Native American women as well as the problems associated with criminal authority at the tribal, state, and federal level. Discussion includes the limitations of SDVCJ and the three Native American tribes' that piloted this law prior to it becoming law on March 3, 2015. The chapter also includes a discussion of the purpose, significance, background, and framework of this study. The chapter also includes the research questions, nature of the study, methodology, ethical concerns, and a summary.

Background

The history of court cases involving tribal sovereignty show contradictions that both support and deny rights of Native American tribes over criminal jurisdiction. In the court case of *Ex Parte Crow Dog*, 109, U.S. 556 (1883) a Sioux tribal member killed another tribal member and the court ruled in favor of Native Americans tribes having

criminal jurisdiction over crimes committed by Native Americans as either the perpetrator or the victim (Harring, 1989). However, the Major Crimes Act (1885) enacted and asserted federal criminal jurisdiction over Native Americans for seven major crimes: murder, manslaughter, rape, assault, intent to kill, arson, burglary, and larceny committed on Native American reservation lands, where the perpetrator is Native American (Redlingslaver, 2017). “One reason for the enactment of the Major Crimes Act is that Congress did not consider tribal customary law as a valid institution” (Tsosie de Haro, 2016, p. 8).

Throughout the colonization of America, Native American tribes experienced a decline of governmental authority over their tribal lands with increased court cases that supported European occupation in the United States. The court case of Johnson & Graham’s Lessee v. McIntosh, 21, U.S. 543 (1823) supported the doctrine of discovery that Europeans eliminated Native American occupation of their lands either through purchase or conquest (Newcomb, 1993). Further reduction in Native American sovereignty occurred in the case of States v. Kagma, 118, U.S. 375 (1886) which refers to Native Americans as “domestic dependent nations” that need protection from the United States government (Skibine, 2018). The result of European occupation in the United States has caused implications for Native American tribes to govern their own people on their own land.

Problem Statement

Violence against women is a significant issue that affects women of all races and socioeconomic backgrounds, including Native American women. “According to the

Department of Justice, from 1992 to 2001 the average violent crime rate among Indians were approximately two and a half times the national rate” (Singh, 2014, p. 198).

Domestic violence is at a higher rate for Native American women than other women in the United States population. “Intimate partner violence among Indigenous women tends to be proportionately high, ranging from 46-91% in comparison with 7-51% for non-Indigenous women” (Burnette, 2015, p. 522). Also it was reported by Native American women victims that non-Natives committed almost two-thirds of the assaults. (Singh, 2014).

Finding current statistics of Native American women who experience domestic violence is a challenge. The population of Native Americans varies by individuals self-identifying as Native American and who enrolled in one of the 573 federally recognized tribes in the United States (National Congress of American Indians 2018). Databases of arrests and convictions are separate between the state, Native American tribe, and federal government to accurately estimate the prevalence of violence experienced by Native American women. According to Burnette (2015), “less is understood about violence among Indigenous people in the United States than about any other population” (p. 533).

Native American populations often have low economic status, which can predict the exposure of violence to Native American women. “The United States Census Bureau (2016) reported that 2 million federally recognized Native Americans in the United States have the highest rate of poverty of any racial group” (Brown, 2017, p. 14). Also, women who have low socioeconomic status are two and a half times more likely exposed to physical violence (Raia, 2017). In Addition, Native Americans have a higher exposure to

violence and trauma in the United States than any other race (Raia, 2017). The urban Native American population has similar rates of violence as rural Native Americans living on Indian reservations. “The rate of violent victimization of Native Americans in urban areas is two and a half times higher compared to all races” (Barnes, 2017, p. 30).

Domestic violence experienced by Native American women is a human rights violation because it restricts Native American women’s rights of freedom and protection. Every woman in the United States has protection from state and federal laws. In 2013, 58% of Native American women married outside of their race indicating that there continue to be social interactions between other races and Native American women (Wang, 2015). In addition, Native American women have little or no legal protection against domestic violence committed by non-Natives due to a lack of criminal jurisdiction prior to the SDVCJ. “The federal government’s decision to prevent tribal courts from prosecuting accused criminals encourages criminals to continue illegal activities on tribal lands” (Redlingshaver, 2017, p. 395). As a result, non-Native men commit domestic violence against Native American women without repercussions for these crimes (Redlingshaver, 2017).

In the United States, the three types of governments include the federal, state, and Native American tribes (Shucha, 2014). The division of sovereign governments creates complexity over criminal jurisdiction, especially regarding non-Natives who commit crimes on Native American reservations. If a non-Native man physically assaults a Native American woman, criminal authority falls within the Native American tribe because the victim is a tribal member with the offense committed on a Native American

reservation. However, Native American tribes do not have criminal authority to arrest and convict non-Natives who commit offenses on Native American reservations, but this changed with the passage of Public law 280.

Public Law 280 (Singh, 2014) transferred state (from federal criminal jurisdiction) criminal jurisdiction over Native American reservations in six states: California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska. Public Law 280 transferred authority to enforce criminal jurisdiction on reservations, including non-Native perpetrators (Singh, 2014). A scenario of applying Public Law 280 began with intervention of tribal police in response to domestic violence on a Native American reservation in any of the six states. Tribal prosecutors get the information of the arrest and cannot file charges to hold non-Natives accountable. Then the case goes to state prosecutors, where it often takes lower priority over felony cases. Although state prosecutors have jurisdiction to prosecute domestic violence cases in which the perpetrator is non-Native and the victim is Native American, they do not have to prosecute these crimes. “The U.S Attorney General’s Office declined to prosecute about 75% of violent crimes reported in Indian country” (Flay, 2017, p. 239). In addition, Public Law 280 states may not choose to exercise criminal jurisdiction over violent crimes on Native American reservations because of taxation. States do not have authority to tax Native Americans on Native American reservations, which means no reimbursement for costs associated with prosecution through taxation (Randon, 2004).

The Indian Civil Rights Act (ICRA) focused on rights for Native Americans such as imprisonment no longer than six months and consent of the tribal government over

Native Americans on Native American land (Russell, 2004). However, ICRA conflicts with Public Law 280 due to Public Law 280 states criminal jurisdiction over Native Americans regardless of location (on or off a Native American reservation) of the crime. The Tribal Law and Order Act (Owens, 2013) is the authority to prosecute and punish criminals (Native Americans only) with emphasis on how to deal with sexual assault and domestic violence crimes. However, TLOA's focus was training for law enforcement and court officers and better services to victims. ICRA and TLOA do not address criminal authority over non-Native domestic violence perpetrators on Native American reservations. This changed with the passage of the VAWA of 2013, which former President Obama signed on March 7, 2013 (Douglas, 2017). The SDVCJ authorized Native American tribes to arrest and convict non-Native men in tribal courts. (Douglas, 2017). The Tulalip tribe of Washington State piloted this law in their court system in 2014 (National Congress of American Indians, 2018).

Prior to the SDVCJ, Native American tribes lacked criminal jurisdiction to arrest and convict non-Native men who committed domestic violence against Native American women on Native American reservations. Congress holds plenary power over Native American tribes. "Though Congress' plenary power is not equivalent to absolute power it does permit Congress to limit, modify, or eliminate the powers of self-government which Native American tribes otherwise possess" (Singh, 2014, p. 202). Therefore, a Native American tribe is sovereign to an extent but limited in its sovereignty at the discretion of Congress. The current research study focused on SDVCJ of cases of arrests and convictions of non-Native domestic violence perpetrators. It was unknown whether

domestic violence had decreased because of SDVCJ, which made non-Natives no longer immune from prosecution when they commit domestic violence on the Tulalip reservation. There are several limitations to SDVCJ. A main limitation is that the perpetrator must have ties with the tribe such as working for the tribe or residing on the Indian reservation (National Congress of American Indians, 2018). SDVCJ is limited to an intimate or dating partnership or violation of a protection order of a non-Native assailant and Tulalip tribal member victim (National Congress of American Indians, 2018). This law does not apply to crimes of stranger or sexual assault, or child or elder abuse (National Congress of American Indians, 2018). Also excluded is any crime that occurs outside of the Native American reservation, which would fall under state jurisdiction. Finally, crimes that occur between two Native Americans are not applicable to SDVCJ because this law is specific to non-Native perpetrators who commit domestic violence crimes against Native American women (National Congress of American Indians, 2018).

Three Native American tribes piloted SDVCJ before it became law in 2015 (National Congress of American Indians, 2018). The three Native American tribes were the Confederated tribes of the Umatilla of Oregon, the Tulalip tribes of Washington State, and the Pascua Yaqui tribe of Arizona (National Congress of American Indians, 2018). The Pascua Yaqui tribes' main challenge of the law was children exposed to domestic violence (National Congress of American Indians, 2018). As mentioned above, SCDVJ does not include tribal criminal jurisdiction over child abuse (National Congress of American Indians, 2018).

The Tulalip tribe of Washington State has faced challenges since implementation of SDVCJ. The case of *United States v. Castleman*, 572 U.S. (2014) created conflicting definitions of how tribes define domestic violence in their tribal legal codes that may differ from the federal definition of domestic violence (Corbin, 2015). Crimes on Native American reservations slip through jurisdictional gaps with restrictions of crimes such as crimes against children, criminal endangerment, and drug crimes that Native American tribes cannot prosecute for (National Congress of American Indians, 2018). The Tulalip tribes recommended amending SDVCJ to include prosecution of crimes co-occurring with violence such as sexual assault, family violence, and victimization of children (National Congress of American Indians, 2018).

SDVCJ overrides one court precedent that prohibited criminal jurisdiction over non-Natives who committed crimes on Native American reservations. This historical court case is *Oliphant v. Suquamish tribe*, 435 U.S. 191 (1978) which denied Native American tribes criminal jurisdiction over non-Natives who committed crimes on Native American reservation lands (Redslingshaver, 2017). The *Oliphant* case resulted in many non-Native individuals who committed crimes on Native Americans reservations being immune from punishment for their crimes due to Native American tribes lacking criminal authority (Redslingshaver, 2017).

Since implementation of SDVCJ, there has been no research to show whether this law has been effective in improving safety against domestic violence for Native American women. SDVCJ “tribal provisions were not implemented until March 2015: therefore there is very little data available to measure their effectiveness” (Redslingshaver,

2017, p. 395). The current study was necessary because more Native American tribes will begin to implement the SDVCJ into their tribal court systems. The research study focused on the gap in literature of the effectiveness of the SDVCJ in the Tulalip tribe of Washington.

Purpose of the Study

The focus of this qualitative research study was exploring whether SDVCJ has enhanced protections for Native American women victims of domestic violence through arrests and convictions. The focus of this research study was the Tulalip tribe of Washington State, specifically cases of domestic violence perpetrated by non-Native individuals. The findings from this study show a decrease in domestic violence committed by non-Native perpetrators on the Tulalip reservation as a result of SDVCJ.

Research Questions

RQ1: Why did the Tulalip tribe choose to implement Special Domestic Violence Criminal Jurisdiction (SDVCJ)?

RQ2: How have the Tulalip tribal court processes changed since the Tulalip tribe implemented SDVCJ?

RQ3: How has the experience of tribal court personnel changed since the Tulalip tribe adopted SDVCJ?

Conceptual Framework

The conceptual framework of this study was the social construction of target populations. Social constructions have shaped criminal jurisdiction for Native American tribes. "Once a group is successfully negatively constructed and that construction is

embodied in law, a negative degeneration social memory often remains as a precedent” (Sabatier & Weible, 2014, p. 125). Native American tribes are sovereign and separate governmental entities from the state and federal government, but this does not mean equal political participation or representation of Native American tribes. For example, the Declaration of Independence refers to all men as created equal but does not specify the meaning and intentionally omits women, minority groups such Native Americans and African Americans, and other nationalities. The Declaration of Independence declared that the King has “excited domestic insurrections amongst us and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions” (Rolo, 2016, para. 2). The Declaration of Independence, signed on July 4, 1776, had explicit language defining Native Americans as savages and remains the same without any amendments or changes. The Declaration of Independence shows the social construction of target populations with the original inhabitants of North America (Native Americans) viewed in a negative manner that was not equal or humane compared to the founding fathers of the United States. Centuries old racial discrimination has shaped the foundation of the relationship between Native American tribes, the state, and federal government that continues to affect policy agendas and design, especially regarding Native American sovereignty (Rolo, 2016).

The relationship between the federal government and Native American tribes has been an unstable foundation of conflicting criminal authority that has supported tribal sovereignty to an extent, but has also diminished tribal sovereignty. Because Native

American tribes are domestic dependent nations, this has created a guardian-ward relationship between the federal government and Native American tribes even though Native American tribes are sovereign governments. There is an unequal government-to-government relationship between the federal government and Native American tribes because the federal government has control over Native American tribes due to Congress' plenary power with the discretion to limit the authority of sovereign tribes. New laws such as SDVCJ provide the opportunity to add protections to the citizens of Native American tribes equal to citizens of the United States. SDVCJ can improve governmental relationships between tribes, states, and the federal government. Sabatier and Weible (2014) concluded that public policy could serve a purpose to eliminate social inequality and divisions to reinforce active citizenship.

Nature of the Study

This qualitative design using a case study approach collected data from the literature and participants. A case study design focused on a specific place and time, which was the present Tulalip tribal court personnel and their experience working with SDVCJ. Also included was the Tulalip tribe board of directors, who could provide insight about the reason for implementation of SDVJC. The social construction of targeted populations was the conceptual framework for this study. Social construction of target populations addresses the cultural disposition of individuals or groups affected by public policy, specifically their behavior and welfare. This framework has a strong influence on public officials especially in the agenda and design of policy. The rationale for using this framework was that Native American women have had a lack of legal protections due to

legal restrictions Native American tribes have had over non-Native domestic violence perpetrators.

Methodology

The participants of this study were the personnel of the Tulalip tribal court system: attorneys, judges, and domestic violence advocates and the Tulalip tribe board of directors. The research site was at the Tulalip tribe in the Marysville, Washington. The role of the researcher was to conduct the research in a nonbiased way by investigating facts and data to evaluate the experiences of the Tulalip tribal court personnel and Tulalip tribe board of directors since implementing SDVCJ into their tribal court system. Prior to starting the study, the Walden institutional review board (IRB) granted permission (approval number 04-23-19-0414627) to this researcher to conduct the study ensuring the protection of the participants' rights including information, privacy, and confidentiality of all participants.

The sampling strategy for this study was purposeful sampling because it “shows perspectives on the problem, process or event” (Creswell, 2013, p. 100). The focus of the purposeful sample was the staff of the Tulalip tribal court including judges, prosecuting and defending attorneys, domestic violence advocates, and the Tulalip tribe board of directors. This sample addressed the gap in the literature regarding the effectiveness of SDVCJ in protecting Native American women of the Tulalip tribe against domestic violence from non-Native perpetrators. Storage of the collected data is on my personal computer with a secured password to ensure confidentiality of all information compiled and stored before, during, and after the research process. The analytical tool used to

group data into themes was hand coding. The number of themes was determined by the data collection from the research interviews.

Assumptions

The main assumption of this research study was Native American women have been socially constructed as a targeted population by not being afforded the same equal protections that each citizen of the United States enjoys, which is protection from harm (violence). History and court precedents regarding Native Americans in the United States have promoted a relationship between the federal, state, and tribal governments with confusion as to who has the authority to administer safety and protections to Native American women on Native American reservations. Tribal governments can effectively administer law enforcement to any of their own tribal members but without authorization to arrest or convict non-Native perpetrators who break the law on Native American reservations. Regardless of the severity of the crime, tribal governments' only measure to ensure safety of their tribal members from non-Natives who commit crime against them is to banish them, which means escorting these offenders off the Native American reservation each time they commit a crime. This leaves the non-Native individual free to go back to the Native American reservation after they have been banned. (Oppenheimer, 2017).

Limitations

A main limitation of this study was that some participants may not have had the same perspectives as the framework of the study (social construction of target populations) to identify gaps regarding the effectiveness of SDVCJ. Other research

designs may have resulted in a better fit, but I decided that the case study design was appropriate for the study. A main weakness of this study was that there was no supporting data to compare domestic violence cases committed by non-Native perpetrators against Native American women on the Tulalip reservation. This was due to a lack of tribal criminal jurisdiction to arrest non-Natives prior to SDVCJ being implemented. This was a weakness that was addressed by consulting with the Tulalip tribal court personnel to discuss cases that were dismissed due to the lack of criminal jurisdiction prior to SDVCJ.

The threat to the quality of the study was not asking the right questions related to the intended purpose. Another threat was taking too long to research the topic, which would have resulted in the research no longer being current. Bias was another threat to the research process because I lived in the area for eight-years and worked for a sovereign Native American tribe for eight years and completed education in Native studies and tribal governance in the state. The threat of bias included working with a Native American sovereign tribe, having established personal connections and relationships with tribal members, and having knowledge of the laws of the tribe. The main bias was knowing how rampant nepotism is in tribal communities where personal ties of family and friends take precedence over qualifications of experience and education.

I come from a background as a former detention officer working with detainees arrested on domestic violence charges (also murderers, pedophiles, and rapists), a social worker working with families and children who experienced domestic violence, a domestic violence advocate working with victims of domestic violence, and being a

victim of domestic violence in 1994 and 2016 perpetrated by two different Native American men. My experiences may have resulted in bias when focusing on the victim, perpetrator, or judicial system. To mitigate this potential bias, I remained objective and focused on the facts obtained from the literature review and research participants.

Ethical Concerns

Each research participant signed an informed consent form prior to taking part in the study. The main concern was protecting the identity of the individuals who were the subject of this research study: Native American women victims of domestic violence. Data collection did not include names, locations, or other indicators that may have revealed the identity of victims of domestic violence. The victims of domestic violence were not interviewed in this research study; the focus was on the arrest and prosecution of non-Native domestic violence perpetrators. The procedure of the interviews addressed protecting the privacy and rights of individuals via written consent, which meant voluntary consent to participate in the research and to stop at any if without repercussions. It was also important not to compromise tribal court positions that may have caused ethical concerns regarding serving victims in advocacy or law, which was supported by discussing cases of domestic violence with no names or other information that could identify victims or perpetrators.

Significance

According to Randon (2004), “the nature of domestic violence is such that the offender will continue to repeat his offense until stopped” (p. 5). Therefore, the law is instrumental in creating social change to protect Native American women from domestic

violence committed on Native American reservations by non-Natives. The current study addressed the criminal jurisdictional challenges and successes of Native American tribes in protecting Native American women. Native American tribes interested in the pilot project of the SDVCJ wrote letters to join the working group. Next, the Department of Justice approved the pilot tribes implementation of SDVCJ regarding non-Native perpetrators. SDVCJ provisions required Native American tribal courts to comply by changing their tribal law to prosecute non-Native perpetrators, ensuring due process for defendants and including a cross section of the community for jury selection, including non-Native jury members (Harvard Law Review, 2014).

There was a gap in the literature because the Tulalip tribe had not been studied and there was very little literature about the influence this law has had on reducing domestic violence on the Tulalip reservation. SDVCJ does not include co-occurring crimes of domestic violence such as sexual assault or when children witness domestic violence. It is questionable whether states intervene to arrest and convict for crimes that lack tribal criminal jurisdiction. The study addressed whether SDVCJ had increased arrests and convictions of non-Native perpetrators who commit domestic violence against Native American women on the Tulalip reservation.

Summary

Chapter 1 introduced the significance of domestic violence against Native American women showing a human rights violation, as Native American women two and a half times more likely to experience violence than any other group in the United States. There are problems associated with domestic violence against Native American women,

but the main problem was the lack of criminal authority Native American tribes had over non-Native domestic violence perpetrators on Native American reservations. The criminal jurisdictional complexities between the state, federal, and tribal governments create confusion regarding what government has legal authority because court precedents have diminished Native American tribes criminal jurisdiction over non-Natives. The SDVCJ changed criminal jurisdiction for Native American tribes by providing the legal authority to arrest and convict non-Native domestic violence perpetrators on Native American reservations. Also included in the chapter was a discussion of the purpose, significance, theoretical framework, and background of violence against Native American women was included to address the relevance and need for this study, supported in the literature review in Chapter 2.

Chapter 2: Literature Review

The passage of the SDVCJ was to ensure protection and safety to Native American women who were victims of domestic violence committed by non-Natives on Native American reservations. Chapter 2 highlights the themes of the literature review of domestic violence against Native American women and the SDVCJ authorizing Native American tribes to implement criminal jurisdiction over non-Native domestic violence perpetrators. The literature review consisted of scholarly articles, journals, and doctoral dissertations about domestic violence against Native American women. A discussion will follow of the theoretical foundation and theory for this study along with the conceptual framework. The literature review is divided into sections that include the following: criminal jurisdiction, domestic violence issues, implementation of the SDVCJ, limitations of the SDVCJ, and not reporting. Each section is sub-divided in sections of criminal jurisdictional authority of Native American tribes, state government, and the federal government.

Literature Review Strategy

The literature review strategy consisted of 75 scholarly articles, journals, theses, and doctoral dissertations on domestic violence of Native American women. The subjects researched were related to domestic violence such as criminal justice, education, health services, policies, administration, security, and social work. Databases accessed were primarily in Walden University's library, including policy and administration databases of political science. The literature review revealed extraordinarily little research on the SDVCJ because implementation of the law was in 2015. However, I found three pilot

studies on Native American tribes: Confederated tribes of Umatilla of Oregon, Tulalip tribes of Washington State, and Pascua Yaqui tribe of Arizona. The pilot studies yielded data on arrests and convictions of non-Native domestic violence perpetrators, and discussions addressed the overall impact of social change within these Native American communities. The lack of literature on the implementation of the SDVCJ and Native Americans tribes regarding the criminal jurisdictional gaps between federal, state, and tribal governments warranted further research.

Theoretical Foundation

The theoretical framework for this study was the social construction of target populations. The origin of the social construction of target populations introduced by Schneider and Ingram (Sabatier & Weible, 2014) was the concept of target groups selected for public policy purposes due to the positive and negative social constructions and their connections. The political power creating the policy of the target group negatively or positively socially constructs the target group (Sabatier & Weible, 2014). The design of policies reflects the institutions that create them and emphasizes their culture, power, relationships, and social constructions (Sabatier & Weible, 2014).

The major propositions of the social construction of target populations are the advantaged, contenders, dependents, and deviants (Sabatier & Weible, 2014). The advantaged group is most likely to get benefits such as tax deductions or credits, or respectful treatment (Sabatier & Weible, 2014). Although the contenders have political resources, they may be viewed negatively if they have a viewpoint of wanting to help people, which can be regarded as untrustworthy and selfish (Sabatier & Weible, 2014).

Dependents are deserving because this group does not have a role in creating wealth (Sabatier & Weible, 2014). Dependents include women, children, students, homeless, and others, and viewed as partially positive of deserving but less than the advantaged groups. (Sabatier & Weible, 2014). Finally, the view of deviants as the population not contributing to society but creating havoc such as criminals, terrorists, and sex offenders. “Deviant make-up for a permanent underclass and are blamed for any of the ills of society that might be more accurately attributed to the broader social and economic system” (Sabatier & Weible, 2014, p. 112).

The social construction of targeted populations, especially groups lacking political power and the poor often create unfavorable policy for this group. This leads to policy designs that negatively construct target populations, for example voting rights denied through public policy created a lasting impact (Sabatier & Weible, 2014). The Native Americans, who are the original inhabitants of this country, could not vote until the passage of the citizenship act of 1924. According to Sabatier and Weible (2014), “bias, labeling, stigma and stereotyping exist in the way humans think and interact and public policies are only one of many mechanisms that reflect and reinforce them” (p. 122).

The social constructions of target populations show that legislators tend to design public policy that focuses on executing policy to advantaged groups and punishing groups viewed as deviant (Sabatier & Weible, 2014). The implications that arise for creating policy is that there is not one specific way to make right or reverse the path to give either more benefits or punishments to groups valued as deserving or deviant.

(Sabatier & Weible, 2014). “Deviants are punished to the extent that the U.S. leads all countries of the world in its rate of imprisonment” (Sabatier & Weible, 2014, p. 131).

The social construction of target populations theory correlates to tribal criminal jurisdiction because prior to the SDVCJ, non-Natives were exempt from arrests or convictions when they committed crimes on Native American reservations. The court case of *Oliphant v. Suquamish Tribe*, 435 U.S. 191 (1978) supported Native American tribes lacking criminal authority over non-Natives (Redslingshaver, 2017). The social construction of target populations singles out Native American sovereign governments as incapable of administering law enforcement prohibiting criminal jurisdiction over non-Natives. Federal Native American laws are full of contradictions which reference Native American both in a positive and negative perspective in court rulings that still impact Native Americans today (Williams, 2010).

The first ratified treaty in 1778 was with the Delaware tribe (Zhang, 2015). Under this treaty (Zhang, 2015), the Delaware tribe lacked criminal authority to prosecute and punish non-Natives because they (non-Natives) were citizens of the United States and Native Americans were not (until 1924). According to Zhang (2015), early treaties acknowledged that Native American tribes could punish non-Natives as they saw fit. “The records of Benjamin Hawkins, the principle Indian agent to the Creek tribe in the early nineteenth century, also reflect the occurrence of trials by the Creek National Council, whereby the tribes exercised jurisdiction over non-Indians” (Douglas, 2017, p. 758). This shows a contradiction of Native Americans having criminal jurisdiction over non-Native individuals but also not having criminal jurisdiction over non-Native

individuals. Native American tribes were socially constructed in a positive sense as an inherent authority over non-Natives but also in a negative sense that tribes lacked authority due to citizenship factors.

Public Law 280 (Redlinshaver, 2017) is another example of the social construction of target populations theory because neither Native American tribes nor the states received notification before Public Law 280 (Redlingshaver, 2017) became law. Public Law 280 (Redlinshaver, 2017) transferred federal criminal jurisdiction to state jurisdiction in six states: California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska. The passage of Public law 280 (Redlingshaver, 2017) transferred the responsibility from federal to state government to protect Native Americans in their state. However, this law further diminished tribal sovereignty because the state had higher legal authority over criminal matters. Public law 280 (Redlinshaver, 2017) intentionally omits Native Americans' criminal jurisdiction and views them as incapable of handling their own criminal matters. Congress assumed plenary power over Native Americans, embedded in federal Native American law since the beginning of the nineteenth century. Plenary power of Congress exemplifies the social construction of target populations because Native American tribes are separate sovereign governments, but at the discretion of Congress who defines the parameters of tribal sovereignty and to whom (Redlinshaver 2017).

Consequently, criminal authority of Native Americans falls under concurrent jurisdiction (between states, Public Law 280 states, and the federal government). This adds complexity because all three governments can prosecute offenders on Native

American reservations. However, Native American tribes do not have criminal jurisdiction over non-Native who commits crimes on Native American reservations. Evidently, Native Americans are socially constructed as a targeted population because of the criminal jurisdictional issues that exist between the tribe, state, and federal government. Native American reservations are “the only place in the United States where the racial and political status of the perpetrator and victim bare on the question of which sovereign may exercise jurisdiction in a given instance” (Douglas, 2018, pp.761-762). When the commission of a crime occurs anywhere else in the United States besides a Native American reservation, there is no question of criminal jurisdiction as state authorities are dispatched and able to respond to crimes quickly to protect individuals and communities.

Currently, there is no administration responsible for collecting and analyzing crime and victimization on Native American reservations therefore, justifying this group as socially constructed and targeted as forgotten or less important than other groups that have administrations that collect data on crimes/victimization. The implementation of SDVCJ mirror Anglo-American criminal court procedures that detours Native American tribes away from their own unique ways of dealing with justice that may not necessarily be like American criminal justice procedures.

“To ask a tribal government to restructure its criminal justice system so that it aligns with the federal system is to ask the tribe to choose between attaining authority to combat crime within its territory and its traditions, customs and autonomy, this is simply asking too much” (Reglingshaver, 2017, p.417).

The perspective is Native Americans need to be the same or at least reflect American judicial procedures for laws to be acceptable for implementation on Native American reservations. “Common understandings of criminal jurisdiction in both federal and international law do not normally require a relationship between the perpetrator and the sovereign who’s territory the offense was committed and the relationship of perpetrator to victim” (Tsosie de Haro, 2017, p.777). Regardless of response to a crime on a Native American reservation, whether tribal, state, or the federal government, there are inadequate protections to Native American women merely because of where the crime occurred (Native American reservation) and who (non-Native individual) committed the crime. The criminal jurisdictional issues construct Native American tribes as less deserving to prevent or address crimes on Native American reservations for public safety and protection.

The social constructions of target populations and the research questions of this research study are related due to the challenges Native Americans (targeted population) have with conflicting criminal jurisdictional issues between the states and the federal government. A lack of criminal authority has interfered with protecting Native American women on Native American reservations perpetrated by non-Native men. The research questions inquire what factors led to the Tulalip tribe to decide to implement SDVCJ over non-Native domestic violence perpetrators. Also, the response of how the Tulalip tribal courts have changed since implementing SDVCJ.

The social construction of target populations and implementing the SDVCJ has significantly affected all Native American tribes, but especially Alaska Natives. The

SDVCJ has no application to Alaska Natives due to the passage and signing of the Alaska Native Claims Settlement Act (ANCSA) of 1971 that extinguished Alaska Natives to all title and sovereignty to their land (Fortson, 2015). Alaska Native land was not settled as federal trust land (what Native American reservation lands are); therefore, the federal government has no lands in trust for Alaska Natives. Instead, Alaska has Native villages for land settled through ANCSA, which is not Native land. This exempts Alaska Natives land from implementing SDVCJ, as their land is not a Native American reservation land but Native villages. Alaska Natives exempt from the SDVCJ demonstrates the social construction of target populations of Alaska Natives because of ANCSA's definition of Alaska villages rather than Indian reservations restricts this population from implementing SDVCJ.

Criminal Jurisdiction

Criminal jurisdiction on Native American reservations is an extraordinary complex issue. The court case of *Oliphant v. Suquamish*, 435 U.S. 191 (1978) (Redlingshaver, 2017) added more complexity for Native American tribes by prohibiting criminal jurisdiction over non-Natives on Native American reservations (Redlingshaver, 2017)z. The contradiction is that although the Suquamish tribe is a sovereign government, the *Oliphant* case ruled that the extent of the Suquamish tribal criminal jurisdiction is only applicable to Suquamish tribal members. "Indian law is full of contradictions and confusion, federal Indian policy is to say the least schizophrenic" (Williams, 2005, p.160).

State jurisdiction over Native American tribes is only set up under Public Law 280 (California, Oregon, Wisconsin, Alaska, Nebraska, and Minnesota) on Native American reservations (Burton, 2016). In other states that are non-Public Law 280, the federal government is the only government that has criminal jurisdiction over crimes committed by non-Natives on Native American reservations (Burton, 2016). There are 4.6 million people who live on Native American reservations of 573 federally recognized tribes with only 1.1 million who identify as Native American, substantiating a higher number of non-Natives living on Native American reservations (Mullen, 2017).

Alaska is exempt from implementing the SDVCJ because the criminal jurisdiction only applies to Native American reservation land. “According to the U.S Bureau of Indian Affairs, there are 229 federally recognized tribes in Alaska, comprising roughly 40% of all federally recognized tribes in the United States” (Gottstein, 2014, p.1265). The history of the Alaska Native Claims Settlement Act (ANCSA, 1971) awarded a settlement of one billion dollars and 45 million acres of land in exchange for extinguishment of all title and sovereignty to their land (Gottstein, 2014). The issue is that ANCSA designed fee simple land and not Native American reservations, and therefore Alaska tribes lack territorial sovereignty and implementing SDVCJ, is not an option for Alaskan tribes. Despite lacking tribal criminal authority, there still needs to be measures to address domestic violence for Alaska Native women. According to Gottstein (2014):

Alaska Native women are two and a half [*sic*] times more likely to experience sexual assault and domestic violence in their lifetime than the national average

and Alaska Native women are ten times [sic] more likely to be a victim of such attacks than all other Alaska women. (p.1254)

There are also more than 70 Native Alaska villages with no law enforcement (Gottstein, 2014), which means that Native Alaska women not only have the highest victimization rates, but also do not have the protection or safety to address the violence they experience.

Criminal authority at the tribal level is complex on Native American reservations. Relationships are important, especially at the tribal level and tribes lack a relationship of trust with the federal government. This can lead to families siding with the defendant's family rather than the victim's family to avoid siding with the federal government over the tribal member (Petillo, 2013). This can also bring up injustices of past federal policies experienced by Native Americans and can affect communication and collaboration between Native American tribes, state, and the federal government.

Domestic Violence Issues

The history of domestic violence in Native American communities prior to European colonization was almost non-existent, but tribes had severe sanctions for acts of violence (Metamonasa-Bennett, 2015). Native Americans are still affected by the devastating effects of colonization by European settlers, called *historical trauma*. "Historical trauma can be viewed as the interpersonal and systematic emotional, verbal and physical assaults by those of privilege and power against members of marginalized groups" (Gebhardt, & Woody, 2012, p. 240). The historical trauma endured by the Native Americans had a greater severity than the Holocaust because the trauma is still present

and ongoing (Gebhardt & Woody, 2012). Native Americans continue to live on the very land (United States) where they experienced traumatic loss (Gebhardt & Woody, 2012).

The issues of domestic violence at the tribal level are unique and complex. The exposure to violence affects the entire community not just Native American women, but also Native American men and children. For example, “Native American men are more likely than men of other ethnicities to experience traumatic brain injury (TBI) as a result of violence” (Hardy & Brown-Rice, 2016, p. 333). Native American children’s exposure to violence and trauma are at rates higher than any other race in the United States with many of the child abusers being non-Native (Raia, 2017). The correlation of domestic violence and child abuse is intricately linked with national studies demonstrating that men who abuse their partners batter their children in 49% to 70% of cases and child abuse against mother in 28% to 59% of cases (Raia, 2017).

The consequences of domestic violence to Native American women, children, and families are enormous. Native American women victims of domestic violence can be hospitalized, suffer mental health issues including, Post Traumatic Stress Disorder (PTSD), depression, anxiety, and suicidal ideation, have problems with employment stability due to absence, tardiness, job performance, or even termination of employment (Raia, 2017). Native American children who see domestic violence can experience neglect, abuse, or involvement in the domestic violence incident (such as trying to protect the abused parent). The consequences of domestic violence to Native American families has the most detrimental impact, which can impact multiple households, extended family, and communities due to the close-knit relationships that Native Americans have with

each other. Family ties can sever or divide groups in terms of loyalty to side with the perpetrator or victim of domestic violence.

The lack of criminal jurisdiction over non-Natives limits tribal governments to protect their communities. “By restricting tribal court to Indians effectively immunizes non-Indians from tribal authority and consequently receives much of the blame for the high incident of gender-based crime in Indian country” (Harvard Law Review, 2014, p. 1514). Native American victims of domestic violence also must deal with tribal governments that do not prosecute male perpetrators of their own tribe (Berney, 2015). Dealing with tribal governments that may not support domestic violence victims can result in fear of reprisal and lead to Native American victims seeking services from outside agencies (Berney, 2015).

Communicating and collaboration with tribes is lacking from both the federal and state governments. “It is not uncommon for the federal government to fail to inform tribal governments about their decisions to prosecute cases in which they share concurrent jurisdiction with tribes” (Oppenheimer, 2017, p. 863). This means that Native American tribes may not know if any of their own people are going through criminal jurisdiction by the state or federal government.

Cooperation from domestic violence survivors is another issue at the state level. In fact, it is encouraged by VAWA (not SDVCJ) for states to adopt mandatory arrest policies that allow cases to continue with prosecution without the cooperation of survivors (Kimball, Mehrotra & Webab, 2016). Implications of victim cooperation in domestic violence cases do not factor in victims who may live in or near the same

communities of domestic violence perpetrators. Also, not considered is a domestic violence victim who may not have the support of friends or family. The results can have devastating impacts on the victim if prosecution of a case occurs without their cooperation. The state and federal criminal justice procedure provides safety and protection to domestic violence victims with police intervention, separation between perpetrator and victim, domestic violence services (perpetrator and victim), and justice through the court system. Both perpetrator and victim can go through the requirements of completing programs to satisfy court/probation and victim services, but this does not mean each succeeds with rehabilitation, and/or is safe or healed from the violence that occurred. In many instances, the victim and perpetrator reconcile and continue their relationship despite intervention from law enforcement or wait for the no contact or protection orders to expire so they can resume their relationship without interference.

Funding and access to funding to give adequate services to victims of domestic violence (Native American women) is an issue to address the emotional, physical, and health needs of domestic violence victims. “The funding per-capita spending on health care services for Native communities is far below its spending on health services, for all other groups” (Petillo, 2013, p. 1872). Inadequate funding means not being able to serve Native American women who experience domestic violence in a manner equal to other public service provider programs who give similar services to domestic violence victims.

While Americans can take their safety for granted, many Native American communities do not. Native American communities are some of the most dangerous places in the United States (Tinker, 2014). Besides domestic violence, safety should be a

priority in all communities, especially Native American reservations. For example, the state of Montana reservations has homicides rates that were twice as high as New Orleans and New Orleans is one of the most violent cities in the United States (Martin & Danner, 2015).

Implementing SDVCJ

Implementation of SDVCJ at the federal level passed on March 13, 2013 (became law March 13, 2015), authorizing tribal criminal jurisdiction to arrest and convict non-Natives who commit domestic violence against Native American women on Native American reservations. The SDVCJ, reverses the court precedent of *Oliphant v. Suquamish Tribe* (Redlingshaver, 2017) that restricted Native American tribes of criminal jurisdiction over non-Natives on Native American reservations. Implementing SDVCJ requires the non-Native individual must reside on a Native American reservation, be employed by the tribe, be a spouse, or be an intimate or dating partner of a member of the Native American tribe and only applies to acts of violence, dating violence, or violation of protection orders (National Congress of American Indians, 2018). If a non-Native individual commits rape or other assault on a Native American reservation, SDVCJ does not apply when there is no prior relationship between the perpetrator and the victim (National Congress of American Indians, 2018). Also excluded from SDVCJ, are co-occurring crimes of domestic violence such as sexual assault or child abuse, which fall under federal jurisdiction with the exception of Public Law 280 states (California, Nebraska, Wisconsin, Oregon, Minnesota, and Alaska) where these crimes would fall under state jurisdiction.

For states' implementation of SDVCJ, is only applicable to Native American tribes that have chosen to implement the law within their tribal courts. If not, then the states covered under Public Law 280 has criminal jurisdiction over non-Natives who commit crimes on Native American reservations. For those states without Public Law 280, the federal government has criminal jurisdiction. Alaska may have a proposed solution to implement SDVCJ through the Alaska Safe Families and Villages Act (ASFVA). Introduction of the pilot program occurred on August 1, 2013 by the state of Alaska and the goal of ASFVA is to empower Alaska Natives to fight basic alcohol and domestic violence in places where there is currently no law enforcement in place (Gottstein, 2014). This pilot project is still in the proposal stage and not yet implemented. Any changes in criminal jurisdiction in Alaska would need to address the Native American reservation issue that ANCSA's extinguished with the passage of this settlement act and the Major Crimes Act of 1885 (Redlingshaver, 2017).

Surprisingly, "the vast majority of domestic violence assaults against Alaska Natives (87.3%) are committed by other Alaska Natives" (Fortson, 2015, p. 95). This contradicts with research that support the majority of domestic violence are committed by non-Natives. Alaskan tribes have concurrent jurisdiction with the state of Alaska because of the lack of Native American reservations within the state due to ANCSA. There is a lack of scholarly sources in the literature review that identified if concurrent jurisdiction between Alaska state and Alaska tribes worked well or not to combat domestic violence against Native Alaska women in Alaska Native communities and is beyond the scope of this study.

Non-Natives have their rights under SDVCJ, which align with the same rights guaranteed by Indian Civil Rights Act (ICRA). The rights afforded to non-Native defendants under ICRA are: effective counsel, defense attorney and judge both licensed to practice law, laws made publicly available (criminal laws, rules of evidence and criminal procedure etc.), record of criminal proceeding and fair impartial jury of a cross section of the community (including non-Native community) and the right to habeas corpus in federal court (Leonhard, 2015). Native American tribes must adhere to non-Native defendants' rights noted above to implement SDVCJ.

Tribal governments may not opt to implement SDVCJ for assorted reasons. One main reason why Native American tribes may not implement SDVCJ, is the cost incurred for such a program as many tribes often struggle with limited funds from grants or from revenues generated from tribal businesses such as casinos. The main cost associated with implementing SDVCJ for tribal governments is the cost of licensed public defenders and judges. "Costs stand as the great barrier to making any kind of meaningful change in criminal justice in Indian country" (Tsosie de Haro, 2016, p. 11). Congress authorized \$25 million in tribal grants for SDVCJ for 2014-2018. However, the funding is still pending with no release date (National Congress of American Indians, 2018). Another reason may be for the concern of the loss of traditional justice systems that do not mirror the written words of SDVCJ, such as talking or peace-making circles or restorative justice. Also, SDVCJ is more like a British model of justice (Laird, 2015). However, if Native American tribes chose not to exercise special domestic violence jurisdiction it also shows an exercise of sovereignty to decide not to (Urbina & Tatum, 2016).

Thirteen Native American tribes implemented SDVCJ as of March 2017 (Douglas, 2018). The results: 87 arrests with 19 guilty pleas; 5 referrals to federal prosecution, 1 jury acquittal, 16 dismissals and 4 cases pending (Douglas, 2018). Pascua Yaqui tribe was one of the pilot project tribes that also implemented SDVCJ and reported the ability to address domestic violence perpetrated against Native women (by non-Native men) and also guarantee the civil rights of the accused (Urbina & Tatum, 2016). The police officers of Pascua Yaqui tribe (26 officers) are all certified at the tribe, state, and federal level to enforce SDVCJ in their community omitting the question of criminal jurisdiction as they are all triple certified to do so (Urbina & Tatum, 2016).

SDVCJ Limitations

Prior to SDVCJ federal and state governments had responsibility for crimes committed by non-Native on Native American reservations. This law does not apply to state jurisdiction over non-Natives because SDVCJ only applies to domestic violence committed by non-Natives on Native American reservations. The SDVCJ does not apply to non-Natives who visit tribal lands for a brief time, commit crimes of violence and then go back to their homes outside of the reservation (Raia, 2017). SDVCJ does not include co-occurring crimes of domestic violence such as property damage, alcohol or drug abuse, and violence against children (Raia, 2017). As mentioned previously in this chapter, SDVCJ does not cover Alaska nor does it change Alaska Native sovereignty (Gottstein, 2014). SDVCJ does not address the prevention of domestic violence to Native American women and only applies after domestic violence has occurred.

Language in SDVCJ although vague, does extend to victims of domestic violence regardless of sexual orientation. The statistics of hate crimes against Lesbian, Gay, Bi, Transgendered or Queer (LGBTQ), or two-spirited (term used in Native American communities to refer to LGBTQ) individuals of color is that they are 1.6 times more likely to experience violence and 2.9 times more likely to experience discrimination when seeking help (Tsosie de Haro, 2016). There are some Native American tribes that support or ban same-sex marriages. This can result in Native American tribes not acknowledging LGBTQ or two-spirited domestic violence victims as a qualifying relationship for SDVCJ to apply (Williams, 2010). This creates a gap in criminal jurisdiction over non-Natives who perpetrate domestic violence against tribal members in same-sex relationships. Regardless of Native American tribes support or lack of support of same-sex marriages or relationships, the two-spirited population still needs adequate protections against violence. “VAWA’s vague language as to whether same-sex relationships qualify under the act can have unintended consequences that lead to less protection of our two-spirited individuals” (Tsosie de Haro, 2016, pp. 18-19).

For Native American tribes to implement the SDVCJ, they must revise their tribal codes, have jury selections of a fair cross section of the community (including non-Natives), ensure defendant’s rights and criminal defense (provide legal representation), and meet court and judicial requirements as well as law enforcement training (Harvard Law Review, 2014). Although the selection of the pilot Native American tribes were in 2014 prior to SDVCJ becoming law in 2015, any Native American tribe can exercise special jurisdiction over domestic violence perpetrated by non-Natives on Native

American reservations, provided they meet the statutory requirements above and approval from the Department of Justice is not a requirement (Wiserman, 2013).

Not Reporting

There was a substantial amount of information in the literature review at the federal, state, and tribal level dealing with reasons for not reporting domestic violence. At the federal level, the relationship of distrust still exists between Native American tribes and the federal government, which results in a higher number of cases not reported (Petillo, 2013). There is also the belief by tribal governments that there is little chance of prosecuting the case, which is another reason there is a lack of reporting of domestic violence in Native communities. The relationship of distrust between the federal and tribal governmental has resulted in systematic barriers including lack of trust, blame, prejudice, or racism, history of mistreatment, and oppression from white society, which includes the federal government (Brown, 2017). Studies from national victimization reports of Native Americans (on and off reservations) stated half of violent victimizations go unreported (Palmer & Chino, 2014). There is also a lack of reporting due to the significantly higher declination rates of Native American cases (Raia, 2017). Thirty-four percent of Native American cases declined for prosecution compared to 14.9% declined of all criminal cases by U.S. Attorneys (Raia, 2017). Therefore, high declination rates of violent cases affect the likelihood of domestic violence reporting by Native American victims.

The literature review revealed no literature was available on state reports of domestic violence committed against Native American women by non-Natives. Even

though Public Law 280 states have authority over crimes committed on Native American reservations, there was no information on cases or incidents of domestic violence committed by Non-Natives against Native American women. It could be under one category of overall crimes or categories that combines the entire population of the state without categories such as race. It may also be that states combine domestic violence crimes with other criminal offenses that fall under Public Law 280 or the Major Crimes Act.

The main reason for not reporting domestic violence by Native Americans is because of the limited criminal authority Native American tribes have over non-Natives who commit domestic violence on Native American reservations. As a result, Native Americans were “accustomed to a lack of tribal jurisdiction over non-Indians, as many as 80% of Indians have previously stated that they did not report non-Indian partner violence because they knew the tribe was powerless to help” (Burton, 2016, p. 208). Therefore, not reporting domestic violence is correlated to a Native American tribes lack of criminal jurisdiction over non-Natives. However, cultural norms play a role as well.

Cultural barriers and norms prevent the reporting of domestic violence in Native American communities. The Washoe Tribe of Nevada and California reported that the close-knit relationships that existed in Native communities is a barrier, but the major barrier is the social stigma associated with reporting domestic violence (Rumble, 2014). Many victims of domestic violence in Native American communities do not report due to fear, blame, humiliation, gossip, fear of retaliation, to protect family honor, going against unspoken rules as well as fear or distrust of systems and fear of being arrested (Brooks,

Crossland & Palmer, 2013). The geographical location of Native American reservations is a barrier to not reporting as Native American reservations are in areas far from urban areas. Also, Native American tribes lack resources to help victims of crime, which means many victims must travel far off the Native American reservation for assistance.

Cultural norms significantly show why domestic violence occurs in Native American communities and impact domestic violence victims (Tso, 2015). Victims feel pressure from their family not to report or discuss domestic violence with anyone outside their family, which reinforces the preservation of culture. (Tso, 2015). Native American men may not report domestic violence (as a victim) because it may devalue their masculinity (Martin, 2013). “In an attempt to preserve cultural values, many Native communities encourage women not to leave violent relationships or stay and deny abuse” (Tso, 2015, p. 90). The lack of collaboration due to cultural norms that exist between family, community members, tribal government representatives and tribal police can result in less reporting of domestic violence.

Another reason for not reporting domestic violence is the risk associated with reporting. For example, if children are involved, this may mean moving and breaking up the family or the fear of the removal of children from the victim’s care by social services. The domestic violence victim may have limited financial resources and may risk homelessness by reporting domestic violence. The domestic violence victim may also suffer more physical violence or homicide from the perpetrator after trying to separate or divorce (Baughman, 2014).

The risk of confidentiality plays a significant role in Native American communities due to the close-knit relationships as well as extended family that may make it difficult to report domestic violence. For example, LGBTQ or two-spirited individuals as “victims often report they were unable to seek help because their batterer threatened to reveal their sexual identity to their employer, friends and/or family” (Baughman, 2014, p. 6). Therefore, the victim risks exposure of their sexual preference if they report domestic violence especially if the victim has not come out to their family or friends. The biggest risk is if the community does not accept the sexual preference of the victim, which can mean a lack of support to the domestic violence victim.

A lack of support impacts women who report domestic violence because they “often receive unsupportive reactions when disclosing abuse to their families, friends, and other members of their communities” (Crisafi & Jasinski, 2016, p. 990). Therefore, merely talking about domestic violence to family or friends where there is an expectation of trust and care poses a risk that the support may not be available. It also poses a risk living in a small community, such as a Native American reservation, especially if that is the only support mechanism a domestic violence victim may have.

Summary

Chapter 2 consisted of the literature review of seventy-five scholarly articles, thesis, and dissertations from the past five years on domestic violence against Native American women. The research strategy discussed the location of the literature and organized into themes of federal, state, and tribe with subsections of criminal jurisdiction, domestic violence issues, and implementation the SDVCJ, Limitations of SDVCJ and not

reporting. The Tulalip tribe of Washington State implemented the SDVCJ into their tribal court system and is the focus of this research study. The research study will provide new literature about the effectiveness of the SDVCJ, and if protection has increased to Tulalip Native women (who are victims of domestic violence by non-Natives) on the Tulalip reservation. The literature review correlates the social construction of targeted populations theory in relation to Native American women who have experienced severe human rights violations because Native American tribes were prohibited to arrest or convict non-Natives until the passage of SDVCJ. Chapter 3 discusses the research design and rationale to support the literature review and the use of the theoretical framework of the social construction of targeted populations.

Chapter 3: Research Method

The purpose of this reach study was inquire if SDVCJ has effective in providing protection to Tulalip Native women through arrests and convictions of non-Native domestic violence perpetrators. The Tulalip tribe of Washington State piloted this law in 2014 and implemented it into their tribal legal system in 2015. The organization of this chapter includes the research design and rationale, concept of study, research tradition, role of the researcher, method, and instrumentation. Also included are procedures for recruitment, participation, and data collection. In addition, I describe trustworthiness and ethical procedures and conclude with a summary.

Research Design and Rationale

Research Questions

RQ1: Why did the Tulalip tribe choose to implement Special Domestic Violence Criminal Jurisdiction (SDVCJ)?

RQ2: How have the Tulalip tribal court personnel processes changed since the Tulalip tribe implemented Special Domestic Violence Jurisdiction (SDVCJ)?

RQ3: How has the experience of the Tulalip tribal court personnel changed since the Tulalip tribe adopted Special Domestic Violence Criminal Jurisdiction (SDVCJ)?

Concept of the Study

The research study concept was to interview nine employees of the Tulalip tribal court personnel (attorneys, judges, and domestic violence advocates) and the Tulalip tribe board of directors who have experience working with SDVCJ. I interviewed the participants to explore their perspectives and opinions regarding the effectiveness of the

SDVCJ in protecting Tulalip tribal women against domestic violence perpetrated by non-Natives. In this study, I looked at the theoretical concept of the social constructions of targeted populations to explore whether it was beneficial or detrimental in the creation of SDVCJ. The results of this research study provided information about whether the SDVJC was effective in providing legal protection and safety to Tulalip Native women who were victims of domestic violence.

Research Tradition

The qualitative case study method was selected for this research. According to Creswell (2013), the case study approach is useful to explore a real-life setting. The case study approach is useful to collect information from the literature and participants to report a description of the case as well as themes that focus on a specific date and time (Creswell, 2013). In the current case study, I interviewed the Tulalip tribe court personnel who manage cases of domestic violence that include the arrest and conviction of non-Native perpetrators. I also interviewed the Tulalip tribe board of directors to provide information regarding why SDVCJ implemented at the Tulalip tribe. The case study addressed the effectiveness of the implementation of SDVCJ in achieving arrest and convictions of non-Native domestic violence perpetrators to provide greater protection to Tulalip Native women.

It was also important to consider the cultural differences inherent in the tribes that may differ from American values. There are many protocols and unspoken rules Native American tribes adhere to, which for many are simple a daily way of life. To an outsider, this daily way of life may not be known and could have obstructed the case study

approach if there was a lack of understanding or familiarity with the culture studied. In this study, I was considerate of protocols, unspoken rules, and sacred activities of Native American tribes.

I used the case study approach to interview Tulalip court personnel and the Tulalip tribe board of directors. who provided rich information because the staff stands for different levels of society and nationalities, but all with the same goal to supply services to victims and perpetrators. In this research study, the focus was on the real-life setting of the Tulalip tribal court personnel and Tulalip tribe board of directors who work together with SDVCJ.. The case study approach focused on the unique experiences of Tulalip tribal court personnel and Tulalip tribe board of directors, which differed from any other environment or Native American tribe that provides similar services.

Design Rationale

The rationale for selecting a qualitative research approach with a case study design was to supply literature about previous and present policies that have failed to protect Native American women against domestic violence. This failure has left Native American women unprotected from domestic violence perpetrated by non-Native men. Native Americans written in policies reflect a power imbalance between the state and federal government because they (state and federal governments) have a higher authority to administer criminal authority over Native Americans. The case study approach was appropriate to explore the perspectives of Tulalip tribal court personnel and Tulalip tribes' board of directors regarding SDVCJ. Interviews were the means to explore the

professional experiences of the Tulalip tribal court personnel and Tulalip tribe board of directors working with SDVCJ.

Role of the Researcher

My role as the researcher in this qualitative case study was to be an observer with effective listening skills. I contacted professionals (attorneys, judges, and domestic violence advocates) of the Tulalip tribal court and Tulalip tribe board of directors to interview nine participants from this population. I did not control the outcome of the research and was aware of bias. Respect for Native Americans was crucial in completing this study. Although I am a member of the Native American people of the U.S. continent (Canadian First Nations), that did not mean that the Native American tribe researched would have been receptive to an outsider who had no affiliation with or membership in their Native American community. Asking the right questions to get valuable data for the study was instrumental in obtaining trustworthy results regarding the effectiveness of the SDVCJ in the Tulalip tribe of Washington State. It was also important to stay focused on the research topic and questions and to not steer away or become distracted with other issues of domestic violence.

Collecting data required diligence to ensure confidentiality and safekeeping of data collected. I was sensitive to and aware of the data collected because they contained important information drawn from court personnel of the Tulalip tribal court and the Tulalip tribe board of directors, which may not have been publicized to the general public. I cared about the collected data and did not subject research participants to any

undue harm as a result of taking part in this study. A research project does to intrude in the lives of the participants of the study (Maxwell, 2013).

Finally, as a researcher my key role was to work on this research study until it was complete to provide new and up to date literature on SDVCJ of the Tulalip tribe. A main challenge was to ensure a sampling population large enough to complete the research study for data saturation. Although the Tulalip tribal court personnel and the Tulalip tribe board of directors was the focus of this research study, it wasn't known that this sample would be available to participate in the research study until I began reaching out to the Tulalip tribal court and Tulalip tribe board of directors for research participants.

Ethical Concerns

The main ethical concern of this research study was the impact domestic violence has on children, families, and the community. Protecting the identity, privacy, and confidentiality of domestic violence victims of the Tulalip tribe was another ethical concern. To address this ethical concern, exclusion of domestic violence victims was purposely done for this research. Instead, this qualitative research focused on the perspectives of the Tulalip tribal court personnel and Tulalip tribe board of directors in regards to the SDVCJ effectiveness and if enhanced protections increased to domestic violence victims of the Tulalip tribe as a result of implementing this law.

Institutional Review Board (IRB) granted approval (approval number 04-23/19-0414627) for this research study before interviews began. Each participant signed informed consent form prior to the research as well as information read to the participant

to ensure they understood the nature of the research. Each participant understood that the research study was voluntary with the choice of declining to proceed further with the research interview at any time without repercussions. The researcher did not have issues with any research participants, therefore it was unnecessary to select other research participants.

“Research does involve collecting data from people about people” (Creswell, 2013, p. 87). Confidentiality was another ethical concern, especially because this research study took place at Tulalip tribe of Washington. The reason confidentiality was so important was due to the tight-knit relationships that exists in Native American communities between extended family members, friends and other community members that often know who is going through issues such as domestic violence or other problems. It has been “concluded that Native American women living on tribal lands found it difficult to leave violent relationships due to communal feedback which encourages victims to protect abusers” (Hardy & Brown-Rice, 2016, p. 330). Extended family kinships can be beneficial as they can provide support to victims but can also be detrimental if the extended family does not support a domestic violence victim or wants to protect the abuser. The biggest challenge would be to protect confidentiality of members of a Native American tribe who work in professional roles that serve members who may be family or known in the community. Also, professionals also live in the same Native American communities they serve with little separation between their professional and personal lives. Since the Tulalip tribe is a separate governmental entity, consent was necessary from Tulalip tribe board of directors prior to informed consent from research

participants. This involved emailing a Tulalip tribal attorney who presented my research proposal to the Tulalip tribe board of directors who gave approval for me to conduct my research study.

The final ethical concern was that I worked in this capacity for a Native American government for eight years in child welfare and domestic violence advocacy. Also, I am Canadian First Nations (Squamish and Northern Tutchone) and a victim of domestic violence perpetrated by two separate Native men in my youth (1993) and as an adult (2016). Unintentional bias may have posed an ethical concern when interpreting the data because of the past experiences of working for a Native American government, as a Native woman and as a domestic violence survivor. The results of the research study may have contrasted to what my perspectives are on the subject matter and regardless of what I believe to be true or just, I must report what the research findings were. To address ethical concerns of the researcher, I followed high ethical standard to conduct the research study in an objective manner.

Methodology

The population for this qualitative research study was to nine research participants who work for the Tulalip tribal court or Tulalip tribe board of directors. The participant sampling criteria was participants who are an employee of the Tulalip tribal court (attorney, judge, or domestic violence advocate) or a member of the Tulalip tribe board of directors, be 21 years of age or older and have knowledge as well as experience working with the SDVCJ of the Tulalip tribe and consent to participate. I choose purposeful sampling to select Tulalip court professionals and Tulalip tribe board of

directors who provided insight on their perspectives on the effectiveness of SDVCJ. Purposeful sampling is necessary because it “tends to be more strategic, and purposeful because we are focusing on a case’s unique contexts” (Miles, Huberman & Saldana, 2014, p. 32). The Tulalip tribal court personnel and the Tulalip tribe board of directors was a unique context because these professionals have knowledge of SDVCJ, specifically the Tulalip tribes. The input received from the research participants supplied content not found in the literature review.

Research Participants

The Tulalip tribe website was intended to locate tribal court personnel and the Tulalip tribes’ board of directors to identify nine participants employed with Tulalip tribal court and Tulalip tribe board of directors. However, the researcher had established contact with a tribal attorney who worked with the Tulalip tribe and was able to correspond with this attorney to locate the research participants.

Once the research participants were located, the researcher scheduled the research interviews. Each in-person interview were 60-minutes in length and audio recorded. Each participant received a number (BOD1, DVA1 or A1 etc) to protect their identity. A different coding system differentiated the research participants by their roles as either a tribal court personnel employee or a Tulalip tribe board of directors.

None of the participants received compensation and they understood the information they provided was a significant contribution to policy affecting Native American women victims of domestic violence. The researcher was punctual and attended the research interviews as scheduled, but also was flexible to reschedule.

Instrumentation

The case study approach of this qualitative research study used the research questions, attentive listening, observation, and note taking by the researcher. The main instrument of this research study was the researcher who collected data for this research study. The research interviews consisted of nine research participants of the Tulalip tribal court and Tulalip tribe board of directors. The use of language was important in asking research questions because one word could have changed the entire meaning and content of the research. Therefore, it is important to use wording that guided the gathered data (Berg, 2012).

Data Analysis

The main goal of the research study was to determine the effectiveness of SDVCJ to Tulalip tribal women through arrests and convictions of non-native domestic violence perpetrators of the Tulalip tribe of Washington State. Connecting the data to the research questions assisted in the research study, to inquire if implementation of the SDVCJ of the Tulalip tribe has resulted in increased arrests and convictions of non-Native domestic violence perpetrators. The researcher organized, interpreted, coded into themes, and evaluated the collected data for analysis. “The processes of data collection, data analysis, and report writing are not a distinct step in the process-they are interrelated and often go simultaneously in a research project” (Creswell, 2013, p. 182). The purpose of data analysis was to evaluate the narrative data to create themes and patterns.

The researcher attempted to use NVivo software research software to input data from the research interviews. NVivo intended to help the research study by organizing,

sorting data, and storing of the data collected for this research study. A research software program such as NVivo facilitates research in an organized manner with computer software programs to manage data. However, the researcher used hand-coding instead to create themes from the data collected from the research interviews.

The storage of the collected data was on a private computer and information remained confidential and stored in a computer protected by a password. Any other unused information about the research study was destroyed by shredding before discarding and information kept, remained in a secure and locked file cabinet. It was important to share this information with research participants to ensure research data storage secured in a manner that was acceptable to help research participants feel comfortable providing this information during the research interviews.

Issues of Trustworthiness

The researcher spent an ample amount of time with research participants before, during, and after the research interview to establish a rapport and build a relationship. Relationship rapport was especially important in working with Native American communities because relationships are essential to set up connections and positive working relationships. According to Creswell (2013), prolonged engagement and persistent observation in research is imperative to build trust with research participants and to learn the culture, which provides an opportunity for the researcher to inquire if information was misrepresented or misunderstood from both the researcher and the participants.

Rich thick description was the strategy used to provide transferability of this research. The use of rich thick description supplies information, which readers can draw their own decisions about transferability because the researcher has described in-depth both the participants and the setting of the research (Creswell, 2013). A detailed description of the research study allowed readers to be able to transfer information to other settings because of common threads. For example, domestic violence is a social issue that is not specific just to Native American populations, but the general American public as well. Therefore, in this instance, a rich thick description provided the issues of domestic violence that can be related to other settings or populations with domestic violence issues.

The strategy to supply dependability was triangulation. With triangulation, “Researchers make use of multiple and different sources, methods, investigators and theories to provide corroborating evidence” (Creswell, 2013, p. 251). The use of triangulation assisted in utilizing various research resources to focus on a theme or perspective. Creating codes or themes because of evaluating diverse sources of data, means triangulation is useful to provide information of validity and findings (Creswell, 2013). Triangulation provided dependability in the research study by identifying themes from responses of research participants to each research interview question.

The completion of internal and external validity strategies provided confirmability. The reflexivity strategy was useful to achieve confirmability of this research study. Being reflexive means not only “monitoring your thought processes and decision making, but also knowing your own dispositions, fears, bias, hopes, constraints,

blindness and pressures; observing yourself and learning about yourself and your analytical processes, cognitively and emotionally” (Patton, 2015, p. 523). I was cognizant of my thought processes as well as my emotions on how it could impact the research study.

Ethical Procedures

The main ethical issue was to ensure that research participants were free from any undue harm. This was especially concerning conducting research in a Native American community because Native Americans have strong close knit-relationships of extended family. To address the ethical issue of confidentiality, the informed consent form included information of the details of the research study to ensure research participants understood that the researcher would not reveal real names, but instead supply an alias name and number as an identifier of the research participants. The researcher reminded the participants of their right to decline to take part in the research interview at any time during the research interview process without repercussions. If the research participant declined after initially consenting to participate, the same process would be in place to recruit another participant to replace the participant that declined. However, no research participant declined participation after giving consent to participate.

A final ethical issue was if the researcher shared firsthand experiences with participants in an interview (Creswell, 2013). The researcher did not intend to share personal information but shared some personal information such as Native identity and employment position to establish a rapport and build a relationship with the Tulalip tribes of Washington. Therefore, there was a fine line between not sharing too much personal

information as it pertains to the research study, but enough personal information shared for the research participants to be comfortable participating in the research study. The researcher was flexible but did not to share personal information that may have interfered with the research study for example talking about past experiences as a domestic violence victim.

The researcher conducted nine research interviews. Each research participant received via email the list of the questions prior to the beginning of the research interview and each interview lasted 60-minutes. All data collected was password protected on my personal computer. All paper documents that included research transcripts and notes were in a locked file cabinet with no access to it except by the researcher.

Summary

This chapter has outlined the purpose of this qualitative research of interviewing nine research participants who had working knowledge of the SDVCJ of the Tulalip tribe. The objective of the research study was to provide data on the effectiveness of SDVCJ through arrests and convictions (by non-Native perpetrators) as a result of implementing this new law into their tribal legal system. The researcher chose the case study approach to explore the problem of domestic violence and gain an understanding from data collected from research participants that had experience working with SDVCJ cases of the Tulalip tribe.

A Tulalip tribal attorney provided names and jobs titles of Tulalip tribal court and Tulalip tribe board of directors to select the research participant sample. The study criteria was any individual that was employed with the Tulalip Tribal court as an

attorney, judge, legal advocate, or domestic violence advocate or a member of the Tulalip tribe board of directors, 21 years old or older and identify having working knowledge of SDVCJ with the Tulalip tribe.

The research instrument was the researcher who asked questions to research participants and listened attentively and took notes. The sampling strategy was purposeful sampling to focus on professionals who had experience and knowledge of both the pilot project and implementation of SDVCJ of the Tulalip tribe. The researcher attempted to use NVivo, a qualitative research software program to input research interviews to organize data into themes. However, the researcher instead used hand coding to organize the research interviews into themes. The researcher used prolonged engagement, rich thick description, triangulation, and confirmability to show credibility, transferability, dependability, and confirmability. Ethical issues of this research study included obtaining approval from Institutional Review Board (IRB,), informed consent from research participants and approval from the Tulalip tribe board of directors all of which were obtained prior to the research interviews.

In chapter 4, I will supply the findings of my research interviews. The research results discuss how many research participants took part in the research and the manner of data collection and recording of the data. Chapter 4 will also include coding and themes as well as the results of the research questions from the research interviews.

Chapter 4: Results

The purpose of the case study approach was to understand the perspectives of nine research participants regarding their experience working with SDVCJ in the Tulalip tribe. There were three main research questions. The first research question focused on the Tulalip tribes board of directors and asked why the Tulalip tribe chose to implement SDVCJ. The two remaining research questions focused on the Tulalip tribal court personnel inquiring how the court processes have changed since the Tulalip tribe implemented SDVCJ and how the experience of the Tulalip tribal court personnel has changed since the Tulalip tribe adopted SDVCJ.

In this chapter I discuss the history of the Tulalip tribe to describe the demographics of the research participants. Table 1 lists the number of research participants, as well as their ages, gender, and type of job at the Tulalip tribe. Table 2 lists the themes that emerged from the research findings. I also discuss the method used to collect and analyze the data to produce results of this research study. Finally, I explain how I established trustworthiness and provide a summary of the answers to the three main research questions.

Setting

I used purposive sampling for data collection with eight structured in person interviews and one telephone conference interview. The participant selection criteria were an employee of the Tulalip tribe, 21 years of age or older, and knowledge of SDVCJ. Participants were members of the Tulalip tribal court (attorneys, domestic violence advocates, or judges) and Tulalip tribe board of directors. The face-to-face

interviews occurred between May 21 and May 22, 2019 on the Tulalip tribe reservation in Marysville, Washington. One interview occurred via telephone on May 28, 2019 due to the unavailability of the research participant to participate in person.

Demographics

The Tulalip tribe is located in Snohomish county about 35 miles from Seattle, Washington and north of Everett, Washington. There are 2,208 Tulalip tribal members who reside on the Tulalip reservation, making up 22% of the total tribal population, with the remainder of the population being non-Natives at 72.1% (Tulalip Tribes of Washington, 2010). There are 22,000 acres of Tulalip reservation land, with established boundaries (1855) by the Point Elliott Treat and Executive Order by President Ulysses S. Grant in 1873 (Tulalip tribe of Washington, 2010). This created a permanent home for the Snohomish, Snoqualmie, Skagit, Suiattle, Samish, and Stillaguamish tribes, which is why the Tulalip is referred to as tribes instead of just one tribe (Tulalip Tribes of Washington, 2010). The Tulalip tribe of Washington are governed by seven members of the board of directors nominated and elected to serve 3-year terms; 92% of government services are funded within the Tulalip tribal government. (Tulalip Tribes of Washington, 2010).

I contacted nine employees of the Tulalip tribe of Washington State who volunteered to be a part of this research study. One participant not initially contacted for the research interview volunteered for this research study when I arrived on-site at the Tulalip tribe. However, this individual was a new employee with only 2 weeks of experience in a new position; therefore, this individual was not included in this research

study because his knowledge of SDVCJ before and after implementation of the Tulalip tribe would have been minimal. The nine research participants' demographics are presented in Table 1.

Table 1

Participant Demographics

Participant	Occupation	Gender	Age	Tulalip tribal member	Native
1	Attorney	Female	65	No	No
2	Attorney	Male	35	No	No
3	Director of healing of legacy	Female	33	Yes	Yes
4	Lead domestic violence advocate	Female	26	No	No
5	Safe house coordinator	Female	27	No	No
6	Tulalip tribe judge	Female	55	No	Yes
7	Tulalip tribe judge	Female	47	No	No
8	Tulalip tribe board of directors	Male	55	Yes	Yes
9	Tulalip tribe board of directors	Female	41	Yes	Yes

Data Collection

I was the main instrument for data collection. I used two separate sets of interview questions for the Tulalip tribe board of directors and Tulalip tribal court personnel. Most interviews lasted 60 minutes. Seven participants were Tulalip tribal court employees and two were members of the Tulalip tribe board of directors. The data was audio recorded using a voice recorder app on my cell phone. I took notes on participant's responses to each question. The main research question asked why the Tulalip tribe chose to implement SDVCJ. The next two research questions asked how the Tulalip tribal court

processes have changed and how the experiences of the tribal court personnel have changed since implementation of SDVCJ. Each participant provided their perspective based on their professional role as a judge, attorney, domestic violence advocate of the Tulalip tribal court, or Tulalip tribe board of directors member. The participants shared their experience working with cases of domestic violence in the Tulalip tribal community as a pilot project of SDVCJ and after implementation of SDVCJ.

Each participant signed a consent form, learned about the nature of the research study and offered a copy of the signed consent form. All participants declined to receive a signed copy of the consent form. Scheduling of interviews was done in advance. There were Tulalip tribal employees who met the participant selection criteria sample but worked in different departments in the Office of the Reservation Attorney and Legacy of Healing department. The Tulalip tribe website was not used to locate participants as originally planned. I communicated with an attorney of the Tulalip tribe who identified employees via e-mail who met the selection criteria. This researcher screened each participant to confirm that they met the selection criteria before they were asked to be interviewed.

Data Analysis

After completion of the interviews, I replayed each audio recording to add more notes on the paper forms of the interviews. I hand coded the data to analyze participants' responses to the interview questions. "Researchers code to get grips with our data, to understand it, to spend time with it and ultimately to render it into something we can report" (Elliott, 2018, p. 2851). As I read through each interview, I organized the material

by paraphrasing and using quotes from the interview to create themes and omit irrelevant material. Themes “are broad units of information that consist of several codes aggregated to form a common ideal” (Creswell, 2013, p. 186). as According to Saldana (2016), “you determine the code for a chunk of data by careful reading and reflection on its core content or meaning” (p. 73). The first research question asked why the Tulalip tribe chose to implement SDVCJ. The themes identified from collecting data for this research question were leadership, protection from domestic violence, and healing. The second research question asked how the court processes have changed since the Tulalip tribe implemented SDVCJ. The themes that emerged from the second research question were accountability and training. The final research question asked how the experience of the Tulalip tribal court has changed since implementation of SDVCJ. The main theme that emerged from the final research question was increased work. A discussion of each theme is in the results section of this chapter. There were no discrepant cases identified during the data analysis.

Evidence of Trustworthiness

Trustworthiness of the data relies on credibility, transferability, dependability, and confirmability. Credibility occurred by identifying themes in my research study to record the responses of each research participant’s responses to each research interview question. I created the themes based on the review of each participant’s responses with one another and identified content consistent with the themes identified. Prolonged engagement established credibility by spending time with research participants before and after the research interview to establish a rapport. The design of the first four

research interview questions were to begin prolong engagement to establish a rapport with participants before moving further in depth about the experiences of working with domestic violence cases.

Transferability occurred using rich thick description. Rich thick description helps to demonstrate the research findings and “this description may transport readers to the setting and give the discussion an element of shared experience” (Creswell, 2013, p.192). In addition, rich thick description adds validity of the findings. I provided the demographics of the gender, age, location, employment status and race of each research participant to ensure that readers can draw their own decisions about transferability. The detailed description of the research study allows readers to transfer this information to a different context such as other populations with the social issue of domestic violence. Therefore, although this research study was specific to a Native American tribe, another Native American tribe or community can relate domestic violence to other settings with similar issues of domestic violence.

To establish dependability, I used the strategy of triangulation. Triangulation uses “different data sources of information by examining evidence from the sources and using it to build a coherent justification for themes” (Creswell, 2013, p.191). Establishing dependability occurred by identifying main themes from the research participant’s responses to each interview question as Creswell (2013) mentions, “using several sources of data or perspectives from participants, can be claimed as adding to the validity of the study” (p.191). I also audio-recorded each interview to listen to after the completion of each interview to reference the collected data. By creating themes, I was able to evaluate

the data to provide valid information of the findings. Therefore, the use of triangulation in this research study provided dependability through the identification of themes.

Upon completion of the internal and external validity strategies, the last strategy I used to confirm my results of the data was the reflective strategy. I am a Native woman (Canadian First Nations) and a survivor of two incidents of domestic violence that I acknowledge to be reflective. Being a Native woman and survivor of domestic violence could have an unintended bias as the focus of my study is on domestic violence against Native American women. This unintended bias could have transferred when I sorted, organized, and interpreted the data. However, I strategized by using the script of the research study's consent form and the research interview questions procedurally step by step and re-examined the data I collected throughout this research study.

Results

In response to the three research questions, the analysis of the interview results revealed six themes, which are in Table 2.

Table 2

Results of Implementation of SDVCJ at the Tulalip Tribe of Washington

Number	Theme	Research question
1	Leadership	Why did the Tulalip tribe choose to implement Special Domestic Violence Criminal Jurisdiction (SDVCJ)?
2	Protection from domestic violence	Why did the Tulalip tribe choose to implement Special Domestic Violence Criminal Jurisdiction (SDVCJ)?
3	Healing	Why did the Tulalip tribe choose to implement Special Domestic Violence Criminal Jurisdiction (SDVCJ)?
4	Accountability	How has the court processes changed since the Tulalip tribe implemented SDVCJ?
5	Training	How has the court processes changed since the Tulalip tribe implemented SDVCJ?
6	Increased work	How has the court experience of the Tulalip tribal court personnel changed since the Tulalip tribe implemented SDVCJ?

Theme 1: Leadership

Three main themes came from the responses from the research participants of the Tulalip tribe board of directors. These themes were leadership, protection from domestic violence, and healing. The main theme of leadership was the Tulalip tribe wanted to take a stand against domestic violence as Tulalip tribal council did not support the occurrence of domestic violence. Participant 9 stated every case they worked with (SDVCJ) had the potential to be appealed, therefore Tulalip tribe “couldn’t get sloppy and had to do the job right,” meaning they took on a leadership role as a pilot project and had to ensure it was done right for other tribes to follow. Participant 9 also mentioned that their Tulalip tribal court judge was a member of the Tribal Law and Order Act (TLOA) committee. As a

result of being a member of TLOA, this judge had information about SDVCJ implementation and informed the Tulalip tribal court about this law, which demonstrates leadership as the Tulalip tribe was well informed and chose to become a pilot project. Participant 9 discussed that because they had an active Tulalip tribal judge on the TLOA committee, they knew about SDVCJ becoming law. Participant 8 stated the reason for choosing to implement SDVCJ at the Tulalip tribe was to “put their name out as a model and give 110% to do the job right”. In summary, the Tulalip tribe implemented SDVCJ to be an example.

The Tulalip tribe were ready to implement SDVCJ and described by Participant 9, as the “perfect place and perfect time” to become a SDVCJ pilot project. The rationale was referring to a Tulalip tribal member who was attending a conference about natural resources in Washington, DC. At the same time, Senator Murray stated it was unlikely that SDVCJ would pass due to a lack of having a face of domestic violence against Native American women. As a result, the tribal member attending the natural resources conference decided to testify at a press conference in Washington, DC sharing her story of victimization of violence. Participant 9 mentioned:

No one was prepared for it, but as stated it worked out to be the perfect time and place. It was easy to implement SDVCJ because they had the working pieces of both tribal court and tribal leadership support, meaning the Tulalip tribal court already had laws in place in order to meet the provisions of SDVCJ, such as trained attorneys, recordings of the court hearings, laws made public and due process for defendants. Also, Tulalip tribe board of directors gave approval to

their tribal member to testify in Washington, DC of her story of victimization to help with the passage of SDVCJ.

Theme 2: Protection from Domestic Violence

Before SDVJC, the only measure Native American tribes could do to protect their citizens from non-Native domestic violence perpetrators was to ban them from their Indian reservations. Participant 9's response on the passage of SDVCJ was the "acknowledgement of inherent rights as police powers is the basic right of sovereignty and protection of people". Participant 8 stated "we have to do something and have seen a lot living here, in regards to why the Tulalip tribe chose to implement SDVCJ". Participant 8 also mentioned their experience as a tribal police officer working with cases of domestic violence on the Tulalip reservation. Participant 8 also mentioned that with the support of tribal leadership, the Tulalip tribe were able to have an impact at the national level to acknowledge the jurisdictional gaps to protect Tulalip tribal women against domestic violence from non-Native perpetrators.

As a result of SDVCJ, Participant 8 stated:

Response time is quick as well the referral process," as opposed to a longer response time in the past as tribal police and state police had to decide who had jurisdiction to arrest non-Native domestic violence that occurred on the Tulalip reservation.

Participant 9 stated that implementation of SDVJC is "baby steps to the Oliphant fix", referring to other populations that need protection from violence as well, not just Tulalip tribal women. Participant 8 stated that this "law will be enforced and

followed through”. Participant 8 stated that “this is the beginning and there is more work to do”, which although SDVCJ is a start, more needs to occur to protect all citizens of the Tulalip tribe.

Theme 3: Healing

Participant 8 stated “we’re awakening past victims that never did get justice within our tribe, spiritually so”, in reference to being aware of work that was being done to implement SDVJC of the Tulalip tribe. Participant 8 stated “we have to do something, we’ve seen a lot living here, was in reference to addressing domestic violence at the Tulalip tribe”. Participant 8 continued “many people in their tribal community do not talk about their own trauma”. Participant 8 mentioned “once domestic violence is committed, this is not the end of the relationships between all parties involved due to the tight-knit relationships that exist in the Tulalip tribal community”. Participant 9 stated “physical abuse is not the first sign of abuse, it’s the last, and there is a need for education of what a healthy relationship looks like”.

In addition, Participant 8 shared a story of a Tulalip tribal member who committed domestic violence in the past and changed their life around to eventually be elected on the Tulalip tribe board of directors. “Phrases that are used repeatedly by participants are good leads; they often point to regularities or patterns in the setting” (Miles, Huberman & Saldana, 2014, p.74). Participant 8 encouraged this individual to share their story with the Tulalip tribal community. Participant 8 also mentioned “children have to carry the trauma all their life, and referred to the process of grief in how adults deal with going to a funeral and to imagine what it must feel like for children to experience it”. Participant 9 stated

“families can get healthy as a unit, to heal from domestic violence”. As a result of SDVCJ of the Tulalip tribe, perpetrators are accountable within the community as opposed to outside of the Tulalip tribal community and able to work through domestic violence as a whole family unit. Whereas in non-tribal courts, the focus may differ focusing on an individual perpetrator as opposed to a collective perspective to include a family unit.

Theme 4: Accountability

Themes identified from the research interviews participants to answer research question two were accountability and training. Participant 6 mentioned: “domestic violence perpetrators thought they could get away with domestic violence and that non-Natives may not even show up in court, when charged with domestic violence”. Participant 3 stated “families try to protect perpetrators and want to keep domestic violence within the family and not talk about it”. Participant 4 discussed that you can be an outcast in the tribal community if you talk about domestic violence even if it is just one time. Participant 1 “mentioned every case that has been referred (to federal prosecutors), nothing has happened; the perpetrator got away with the crime(s) they committed”.

Participant 8 identified that there are male victims of domestic violence and stated, “don’t forget about the men” reminding the Tulalip tribal member who testified to help with the passage of SDVCJ. Participant 5 mentioned they have had male clients but can’t house in the shelter because the shelter on the Tulalip reservation is for women and children only. Therefore, the only way they could help was to refer the male domestic

violence victim to a hotel. Participant 7 also stated there is male on male violence and that it is under reported due to fear or embarrassment.

In Chapter 2, I mentioned that the vague language of SDVCJ does include two-spirited or LGBTQ populations. However, I also discussed that Native American tribes may or may not have same-sex marriages written into their own tribal law codes.

However, The Tulalip tribes include two-spirited or LGBTQ populations in SDVCJ.

Participant 2 stated that they had cases of same sex relationships and that there is “no difference and doesn’t matter” in that SDVCJ includes same sex relationships. Participant 8 discussed there are same sex relationships and there continues to be more. Participant 1 also supports that “two spirited are included” in SDVCJ.

One domestic violence case of the Tulalip tribe was discussed three times in three separate research interviews. Participant 9 described a Tulalip tribal woman held hostage by her partner who was non-Native. She was able to call police and have him arrested for the first time. This perpetrator had numerous incidents with Tulalip tribal police before they were able to arrest him under SDVCJ. Participant 1 mentioned the same case where the non-Native perpetrator held a Tulalip tribal member hostage and threw knives at her with their two young children present in the home. The non-Native also assaulted one of the children and the case went on for federal prosecution, where Participant 1 discussed nothing happened with this case and the perpetrator was not held accountable for this crime. Participant 2 described this case where the non-Native was throwing butcher knives at the Tulalip tribal member (who was his partner) stating that he could have killed her.

Participant 6 discussed problems with Tulalip tribal protection orders with the local county. The county continually sent back protection orders for no compelling reasons. Participant 6 described this as blatant discrimination as the county did not want to honor tribal protection orders. Participant 6 stated it “was difficult with cooperation with the state” regarding protection orders. Participant 6 mentioned the solution to this problem was to change their protection order forms to mirror what the state protection forms looked like to ensure that the county would accept the protection orders to enter into the National Crime Information Center (NCIC). Once the Tulalip tribe received access to NCIC, the issue of working with the county with tribal protection orders became non-existent as the Tulalip tribes was able to input tribal protections orders directly into NCIC.

Participant 8 provided information about how there was conflict in the past between the Sheriff’s department and Tulalip tribal police over jurisdiction. The incident was a response to a call where both Tulalip tribal police and the Sherriff’s department responded. The victim was present but received no attention due to the fact that there was a dispute between the two law enforcement agencies over jurisdiction. Participant 8 stated Sheriff’s department “would rather engage in conflict instead of help the victim”.

Seven responses from research participants discussed populations not included in SDVCJ. Participant 6 response was “anyone who commits a crime should be able to be prosecuted”. Participant 7 mentioned “Tribal jurisdiction should be unlimited and children need to be included in SDVCJ”. Participant 1 and Participant 2 discussed a full Oliphant fix to be able to prosecute anyone who commits a crime on the Tulalip tribes’

reservation. Participant 1 commented, “let us prosecute people who commit crimes in our territory just like everyone else”. Finally, Participant 4 stated “every victim of crime deserves to have justice”.

Participant 4 stated “SDVCJ should extend to every victim of crime, not just domestic violence but children, family violence and elder abuse”. Participant 5 described a case of an elder abuse by her adult son and that there was a need for adult protective services. Participant 2 mentioned crimes the Tulalip tribe had no jurisdiction over which was children, stalking, criminal mischief, promoting prostitution and human trafficking. Participant 7 stated “children are a powerful pawn when you’re trying to manipulate someone”. Participant 5 and Participant 7 responded that children need to be included in SDVCJ.

Theme 5: Training

Training was the other theme regarding how the court processes have changed because of implementation of SDVCJ. All judges receive training with a domestic violence component according to Participant 6. Participant 7 mentioned a case of a non-Native attorney defending a non-Native defendant in a Tulalip tribal domestic violence case and argued the Oliphant case. The non-Native attorney had no knowledge of SDVCJ and did not know that the Oliphant case didn’t apply. Participant 7 received a lot of training about SDVCJ and provides peer training. Participant 1 stated there is different training for police officers and court personnel trained internally mainly by staff. Participant 3 and Participant 4 received no training on SDVCJ. Participant 4 mentioned, “a lot of people don’t know what VAWA is, and police officers need training on SDVCJ,

especially on how to respond and work with domestic violence victims and when to call the domestic violence advocate”.

Theme 6: Increased Work

The main theme identified to answer research question three was increased work. The Tulalip tribe reported 18 arrests since implementation of SDVCJ in 2015. Therefore, the Tulalip tribal court has increased work because of SDVCJ (National Congress of American Indians, 2018). Participant 6 mentioned the Tulalip tribal court has had more SDVCJ cases this year and there were more hearings as well as collaboration of cases. Participant 7 stated, “Smaller courts have more work to do.” Work has increased as Participant 2 stated there is “more control over cases to help more victims and the court can directly supervise perpetrators”. Also, prior to SDVCJ, domestic violence defendants had 171 prior contacts with police of which were assorted crimes not necessarily domestic violence which the Tulalip tribe was not able to arrest due to a lack of criminal jurisdiction.

Participant 2 mentioned the people they work SDVCJ with, they have a closer relationship with than the county. As a result, Participant 2 discussed the Tulalip tribal court can determine what works and what did not from feedback from all parties involved. Therefore, working with domestic violence clients of the Tulalip tribe is not a one-time occurrence but can be several incidents. Finally, Participant 7 stated they are in the process of developing a domestic violence court, but it is in the research phase. This has been delayed because of the daily work Participant 7 has which means less time devoted to creating a domestic violence court.

Summary

The purpose of the case study approach was to report the findings of the perceptions of nine employees of the Tulalip tribe who have experience working with SDVCJ. Three main research questions guided this research study. Data collection occurred from structured on-site interviews that occurred on May 21 and 22, 2019 at the Tulalip tribes in Marysville, Washington. One phone occurred interview on May 28th, 2019. I used hand-coding to assist in the analysis of the data that was collected through the research interviews I conducted.

Leadership, protection from domestic violence, and healing were themes identified in this study to answer research question one that asked the question why the Tulalip tribe chose to implement SDVCJ. Research question two asked how the court processes have changed since implementation of SDVCJ and the themes were accountability and training. Research question three asked how the experience of the tribal court personnel has changed since implementation of SDVCJ and the main theme identified was increased work.

In this chapter, I discussed the setting, demographics, data collection method and data analysis method. I also discussed the evidence of trustworthiness, the results of the data analysis and a summary. In chapter 5, I will provide the interpretations of my findings, limitations of my research and recommendations for future research on this research topic. I will also discuss the implications for social change for my research study and a conclusion. Finally, I will provide a detailed summary of my entire dissertation.

Chapter 5: Discussion, Conclusions, and Recommendations

The purpose of this qualitative case study was to explore the perceptions of nine participants regarding their experience with working with SDVCJ in the Tulalip tribe. I communicated with an attorney from the Tulalip tribe to identify nine (seven women and two men) participants for this research study. I completed eight in-person structured interviews and one interview over the telephone. I audio recorded each interview with an app on my cell phone. The in-person structured interviews occurred on May 21 and May 22, 2019 at the Tulalip tribe in Marysville, Washington, and the phone interview occurred on May 28, 2019. Each research interview lasted 60 minutes.

This case study research filled a gap in the literature about the effectiveness of SDVCJ in the Tulalip tribe. In 2015, implementation of SDVCJ was in the Tulalip tribe legal system to enable law enforcement authorities to arrest and convict non-Native domestic violence perpetrators on the Tulalip reservation. The basis for the selection of the research participants were on their professional role working with SDVCJ as a judge, attorney, domestic violence advocate, or member of the Tulalip tribe board of directors. There was ample literature on domestic violence against Native American women. However, the current study addressed the gap in the literature regarding the effectiveness of SDVCJ in protecting Tulalip tribal women from non-Native domestic violence perpetrators. Results of this research study provided information for policy changes to protect victims of domestic violence, especially Native American women. I explored the perspectives of nine employees of the Tulalip tribe whose daily work involves working with SDVCJ. The themes that emerged from the first research question which asked why

the Tulalip tribe chose to implement SDVCJ were leadership, protection from domestic violence, and healing. Accountability and training were themes to answer the second research question which asked how the Tulalip tribal court personnel processes have changed since the Tulalip tribe implemented SDVCJ. The final research questions asked how the experience of the Tulalip tribal court has changed since the Tulalip tribe implemented SDVCJ, and the theme that emerged from the final research question was increased work.

Interpretation of the Findings

To study the effectiveness of SDVCJ in the Tulalip tribe, I selected nine research participants who were employees of the Tulalip tribe. This qualitative case study was conducted to answer three research questions on the effectiveness of SDVCJ of the Tulalip tribe. The theoretical framework of the social constructions of targeted populations was used to interpret the findings of this research study. In the next sections, I discuss the themes and interpret the results to answer the three research questions.

Theme 1: Leadership

The themes identified to answer research question one were an increase in leadership, protection from domestic violence, and healing for the Tulalip tribe. As a result of implementing SDVCJ, there was an enhancement of the leadership within the Tulalip tribe, especially support from the Tulalip tribe board of directors. The Tulalip tribe wanted to take a stand against domestic violence. A Tulalip tribal judge was actively involved before SDVCJ and suggested that implementing SDVCJ would strengthen tribal sovereignty. Enhancement of the leadership occurred because of the Tulalip tribe being

one of three pilot tribes who implemented SDVCJ in 2015. However, SDVCJ is limited because it was created at the federal level. This relates to the social construction of targeted populations theory in the design of the SDVCJ policy, which emphasized the institutions of culture, power, relationships, and social constructions (Sabatier & Weible, 2014). Creation of SDVCJ by the political powers of policymakers socially constructs and targets Native American tribes due to their lack political power as domestic dependent nations (Skibine, 2018). This means the federal government acts as a guardian on behalf of their ward (Native American tribes). This limits the political power of Native American tribes (socially constructed group) that leads to unfavorable policies, such as SDVCJ.

Theme 2: Protection From Domestic Violence

Before SDVCJ, a crime committed on an Indian reservation, went to federal prosecution because Native American tribes lacked criminal jurisdiction over non-Native domestic violence perpetrators. A Native American tribe could only banish the non-Native from their reservation to protect their citizens and, if the non-Native returned, escort them off the reservation. Native Americans were socially constructed and targeted because a lack of criminal jurisdiction on Indian reservations limited protection to all citizens of their tribe. Limiting tribal criminal jurisdiction limits tribal sovereignty and denies the basic human right of protection of harm that every individual in the United States is protected from, except on Indian reservations.

Federal and international law do not require a relationship between the perpetrator and the territory (sovereign) or a relationship between the victim and perpetrator when an

offense is committed. However, SDVCJ has provisions that if a non-Native commits domestic violence on an Indian reservation, the individual must have ties with the tribe by residing on the reservation or working on the reservation and must be involved in an intimate relationship (dating partner or spouse) with a tribal member (Harvard Law Review, 2014). SDVCJ pertains only to domestic violence, dating violence, or violation of protection orders. Native Americans were socially constructed and targeted as incapable of administering justice to any non-Natives who commit crimes on the Indian reservation except for SDVCJ.

Native American women were socially constructed as targeted populations when treaties were negotiated between the tribes and the federal government. “Federal government policies limited the power of American Indian and Alaska Native women as treaties were only negotiated with men and imposed the surname with implicit male ownership of women and children” (Braveheart et al., 2016, p. 27). The political power (federal government) created policy that was unfavorable to Native American women at the beginning of the negotiation of treaties with tribes. Therefore, Native American women were negatively socially constructed as a targeted population in public policy that impacted them.

“Moreover, the predominant European influence included the legacy of legalized domestic abuse such as the rule of thumb, referring to English law permitting a man to beat his wife with a board no thicker than the width of his thumb” (Braveheart et al., 2016, p. 28).

The social construction of targeted populations theory is evident based on the narrow scope and limitations of SDVCJ. SDVCJ applies only to domestic violence committed by a non-Native on an Indian reservation. Limitations of SDVCJ include assault of a police officer, stalking, promoting prostitution, or human trafficking. Also excluded from SDVCJ are Native American children, men, and elders. This means a stranger can assault another stranger on the Indian reservation and SDVCJ would not apply because there is no relationship between the perpetrator and the victim and the perpetrator does not have ties to the Indian reservation through residence or employment. Crimes occur everywhere in the United States. However, on an Indian reservation provisions like SDVCJ prohibit criminal jurisdiction of Native American tribes except in cases involving Native American women who are victims of domestic violence.

Theme 3: Healing

The long lapse in time from the Oliphant case (Redlingshaver, 2017) until SDVCJ (2013) demonstrated the lack of protections afforded to Native American women residing on an Indian reservation. Native Americans compose 1.7% of the total U.S. population, and 78% reside outside of tribal communities (U.S. Department of Minority Health, 2018). Therefore, Native American women who reside on Indian reservations only represent a small population who received minimal legal protections. This socially constructed and targeted Native American women on Indian reservations to appear to be less deserving because they did not have equal protections from harm like every individual has in the United States.

The lack of protections interfered with healing from domestic violence because of the limitations of prosecution of non-Natives who committed domestic violence on an Indian reservation. This prevented healing for victims to seek justice and for perpetrators to be held accountable for these crimes, but especially left victims vulnerable to be further victimized. Without justice, this left victims to their own measures of how to deal with the aftermath of domestic violence to heal and move on. The lack of protections for Native American women socially constructed and targeted Native American women due to their lack of political power to create policy that impacts them.

Theme 4: Accountability

This theme ties in with tribal sovereignty. Native American tribal sovereignty has limitations, which omits certain populations that are immune from their laws. The social construction of targeted populations correlates accountability as there are strict provisions of SDVCJ to only include non-Native men who commit domestic violence on an Indian reservation. The implying message is the federal government is the guardian who authorizes the parameters of tribal sovereignty and to whom and Native American tribes (ward) must adhere to those parameters to administer criminal jurisdiction over non-Natives.

Populations not included in SDVCJ are Native American children, men (who are victims of domestic violence) and elders. Therefore, Native Americans are socially constructed and targeted because they do not have the basic of protection from harm; a right that every citizen in the United States is protected from. This means when a non-Native commits domestic violence on an Indian reservation, his children can witness or

be involved in domestic violence, but the tribe has no criminal jurisdiction to arrest or convict him if he assaults his child. An example from the research interviews, was of a non-Native committing domestic violence on his partner and assaulting his child with a lamp cord. He was arrested for domestic violence, but limitations of SDVCJ prevented the tribe from arresting him for assaulting his child. The case transferred to federal prosecution, without a conviction of this crime. Native Americans lacking political power means unfavorably policy for this group such as a lack of protection for children, Native American men and elders due to provisions under SDVCJ.

Native Americans were socially constructed as a targeted group with the passage of the Oliphant case in 1978 (Redslingshaver, 2017). Even though the only Native American tribe party to the case was the Suquamish tribe, this court ruling has impacted all 573 federally recognized tribes in the United States. As a result of this court ruling, Native American tribes were denied criminal jurisdiction over non-Natives who committed crimes on an Indian reservation. One court case socially constructed and targeted Native Americans as one group with one ruling to determine that no tribe had authority over non-Natives who committed crimes on their reservations. The viewpoint of Native Americans were as incapable of administering laws to non-Natives, which views them as less deserving than other groups.

Theme 5: Training

As mentioned in the research results, not all participants received training on SDVCJ. I argue that SDVCJ has socially constructed Native Americans as a targeted population because it is a law specific only to Native American tribes and non-Native

perpetrators who commit domestic violence on Indian reservations. Therefore, any groups associated with these populations must learn about this law to apply it to their tribe. Non-Native citizens do not have to read or learn about laws that apply to them about protection against harm. It is common knowledge for individuals that there are laws in place to protect us if we have violence done to us. Yet, because SDVCJ is a law with so many limitations, individuals must learn how the law works, who it impacts and whom it does not. Training is necessary on learning about a basic human right that every individual is afforded in this country, which excluded Native American women victims of domestic violence on Indian reservations before SDVCJ.

Theme 6: Increased Work

Native Americans were socially constructed as targeted populations, because although are a sovereign government separate from state and federal government, they were still required to meet certain provisions to implement SDVCJ. Those provisions were due process, record hearings of the court proceedings, trained attorneys, laws made public information and a cross section of jury to include non-Native jurors. Consequently, even as a sovereign government, Native American tribes must still adhere to federal provisions to administer SDVCJ. “Native Americans have been described at various times as the forgotten Americans or vanishing Indians” (Skibine, 2018, p.33). SDVCJ socially constructs and targets Native Americans because this group had to prove they had provisions in place to implement SDVCJ, when all of their tribal citizens should not have lacked protection from harm in the first place. The lack of political power socially

constructed and targeted tribes as not capable of administering laws to non-Natives who commit crimes on an Indian reservations.

Limitations of the Study

There were three limitations of trustworthiness identified after completion of this research study. However, one limitation of trustworthiness remained from the beginning of this study, which was that the research participant's perspectives may-not align with theoretical framework of the social constructions of targeted populations to identify the gaps of the effectiveness of SDVCJ. However, each research participant was able to identify gaps of SDVCJ. Their perspectives included what populations need protection not currently protected under SDVDJ. To ensure validity of my research findings, I used credibility, transferability, dependability, and confirmability. Showing credibility was established by identifying themes generated from the participant's responses to the research questions. This was evaluated from the written notes and listening to the audio recordings several times. Transferability established validity by using rich thick description of the research findings. This demonstrated using real-life settings using quotes from the research participant's responses. Dependability was acquired by the use of several sources of information, from the research participants, from the literature review, from the audio recordings and the Tulalip tribe website to justify the creation of the themes. Finally, confirmability demonstrated by being reflective by relying on the research data only to confirm my research study results without adding any of my own thoughts, opinions or bias.

The first limitation of trustworthiness of this research study is the research study only researched one tribe. There are 573 federally recognized tribes in the United States, which limits this study to only one tribe as tribes vary in size, location, population, and resources. I chose a tribe with the resources and was ready to implement SDVCJ when it became law. There are other tribes that would like to implement SDVCJ but lack the resources the Tulalip tribes have. Therefore, there is truly little literature to compare domestic violence cases perpetrated by non-Natives on Native American reservations as not all Native American tribes are on an equal level with resources to implement SDVCJ.

The second limitation was on the data and the findings. The data only represents a small sample of employees who work within the Tulalip tribe of Washington State with individuals, families and community members impacted by domestic violence. The data did not include Tulalip tribal law enforcement who are usually the first responders working with domestic violence perpetrators and victims of the Tulalip Indian reservation. My data and findings also did not include domestic violence victims, their families or perpetrators and their families of their perceptions of SDVCJ or Tulalip tribal member input as well as the two-spirited/LGBTQ population. As a result, the data only represents a small sample and including the Tulalip tribal law enforcement, domestic violence victims, their families, perpetrators and their family members, Tulalip tribal member input and two-spirited/LGBTQ could have produced different data and findings of this research. The findings only represent domestic violence cases reported by Tulalip tribal women perpetrated by non-Native men. This leaves the question of how many cases of domestic violence are not reported, including Tulalip Native men victimized by

domestic violence. Even with implementation of SDVCJ, there are still populations (children, men, elders, and police officers) excluded in SDVCJ, therefore limiting the data and findings to Tulalip Native women domestic violence victims. This research study only covers SDVCJ, again limiting the data and findings as not all types of violence or crimes covered in SDVCJ but can still impact all populations of the Tulalip tribe.

The third limitation of trustworthiness is I am a Native Woman (Canadian First Nations). My individual opinions, bias, and feelings could have impacted the outcome of this research. However, I avoided this by recruiting research participants referred by a tribal attorney of the Tulalip tribe, gained their consent and research interviewed each research participant following the structured research interviews questions. I also scheduled the research interviews in person on site (also one phone interview) and audio recorded the research interviews at the Tulalip tribes in Marysville, Washington. I used hand coding to organize and analyze my data. Through hand coding, I identified themes based on the responses from research participants.

Recommendations

I have three recommendations for this research study. The first recommendation is to conduct a further qualitative research of SDVCJ within the Tulalip tribe, but instead using snowball sampling and increase the sample size from nine to fifty research participants. The research sample would include any Tulalip tribal member who is twenty-one years of age or older residing on the Tulalip reservation and knowledge of SDVCJ. This research study had little Tulalip tribal member input (three Tulalip tribal

member research participants). Therefore, including this sample would provide a tribal community perspective of how SDVCJ is working.

The second recommendation is a qualitative research study about male victims of domestic violence of the Tulalip tribe. According to the SDVCJ five-year report, “only one Tulalip tribal male identified as a domestic violence victim compared to eighteen Tulalip tribal female” (National Congress of American Indians, 2018, p. 44). However, three participants from this study mentioned the importance of protecting Native American men victimized by domestic violence. Also mentioned in this study was that violence against Native American men does occur; yet there are limited resources of what can be done to provide services to Native American men victimized by violence. A qualitative research study would inquire the types of programs and services needed to men not included in SDVCJ.

My final recommendation is training. There were research participants who had received no training on SDVCJ. Also, a research participant indicated police officers need training on how to work and respond to domestic violence and when to call the domestic violence advocate. Several Tulalip tribe departments provide services to victims of domestic violence. It is unknown how or if collaboration occurs between all departments or if they receive training on SDVCJ together or separate. Some Tulalip tribe departments may work in silos and may not know what other departments do yet have clients in common. Therefore I recommend training and collaboration efforts between all departments involved in working with domestic violence, especially training on SDVCJ.

Implications

Limitations of SDVCJ diminish tribal sovereignty of Native American tribes to fully protect their citizens from harm because it only pertains to Native women victims of domestic violence perpetrated by non-Natives on an Indian reservation. It is a human rights violation that Native women do not receive the same rights of protection just like every individual is in this country until the passage of SDVCJ. The only reason for the lack of legal protections from Native women domestic violence victims from non-Native perpetrators was because of the location the crime, on an Indian reservation. Nowhere else in the United States does the question of race of the perpetrator or victim and residency occur except an in Indian reservation. This was due to the Oliphant case that denied Native American tribes criminal jurisdiction over non-Natives who commit crimes on Indian reservation. Although SDVCJ is a positive step in the right direction to protect Native American women against domestic violence perpetrated by non-Natives who commit these crimes on Indian reservations, there are still plenty of victims (Native American children, men, and elders) who are assaulted by these same perpetrators. However, the parameters of SDVCJ permit protection to only Native American women victims domestic violence committed by non-Native men on Indian reservations.

This research study will assist policy makers of the impacts of creating a policy that socially constructs a targeted population: Native American women. Policy makers can read this research to identify the major gaps and loopholes that prevent Native American tribes from fully protecting their citizens from harm. The population not protected under SDVCJ are Native American children and elders as well as Native

American men victimized by domestic violence. This research supports a full Oliphant fix so that all tribes can exert full criminal jurisdiction over any individual who commits a crime on an Indian reservation.

Healing is not a component of SDVCJ but is much needed in many Native American communities. As mentioned in this research study, many Native Americans have experienced historical trauma and need healing. Cultural norms also play a significant role in Native American communities that prevent families from speaking or dealing with domestic violence. Any victim of domestic violence needs support to help them heal and move on from the effects of domestic violence.

The social construction of targeted populations plays a significant role in the design and agenda of public policy. Policymakers are unaware or do not think to include the populations they are creating a policy for inclusion in the design of the policy. This can lead to a policy created with bias, labeling, and stereotyping emulated and supported in the policy. Again, the reminder that Congress has plenary power over Native American tribes, which authorizes Congress the discretion to limit, modify or eliminate self-government powers that tribes otherwise possess. Plenary power socially constructs and targets Native American tribes as there is an unequal government-to-government relationship between the federal government and Native American sovereign tribes.

Conclusion

The completion of this research study inquired if SDVCJ of the Tulalip tribe was successful in protecting Tulalip tribal women against domestic violence perpetrated by non-Natives on the Tulalip Indian reservations. I interviewed nine research participants

who were employees of the Tulalip tribe of Washington State. This qualitative case study research supports previous findings in all sections of the literature review, which was criminal jurisdiction, domestic violence issues, implementation of SDVCJ, limitations of SDVCJ, and not reporting. Several responses from the research participants referenced a case where a non-Native domestic violence perpetrator was arrested for domestic violence, but not held accountable for the crime of assaulting his child with a lamp cord which supports criminal jurisdiction of the literature review. Historical trauma was discussed in the research interviews that many tribal members have this trauma and need to heal, which supports domestic violence issues of the literature review. Implementation of SDVCJ (also a section of the literature review) was supplied by research participants as the Tulalip tribe was one of three pilot projects. SDVCJ limitations correlated with the section of the literature review and research participants added that SDVCJ should include children, elders, and men victimized by domestic violence as well as stalking, assault, promoting prostitution and human trafficking. Finally, mentioned in the research interviews was repercussions for individuals if they talk about domestic violence, especially if there are cultural norms in families that keep domestic violence within the family and do not speak about it; this correlates with the last section of the literature review of not reporting.

Reauthorization of VAWA (Section 903) added more tribal criminal jurisdiction to include crimes of sexual violence, sex trafficking, child abuse and violence against law enforcement. This bill came out on July 26, 2018, in a previous session of Congress, but was not enacted. VAWA of 2013 expired on 12/21/18. “Although the act is no longer in

place, federal funding for programs that carry out its protections remain secure because money was appropriated in spending bills, separate from any reauthorization of the act” (Thayer, 2019, para.5). VAWA of 2019 passed the house on April 4, 2019 and is waiting passage through senate. Section 903 of VAWA 2019 proposes a bill for five Alaska tribes to pilot SDVCJ. This would authorize five Alaska tribes to prosecute non-Native perpetrators who commit domestic violence, dating violence or violate a protection order. If VAWA 2019 passes through senate then the next step is President Trump signing VAWA 2019 it before it becomes law. At the time of this writing, it is unknown if reauthorization of VAWA 2019 will occur.

The results of this research study provide ways to address social change. Obviously, SDVCJ should extend to any individual on an Indian reservation victimized by crime instead of just Native American women. Also forgotten is Native American men victims of domestic violence who may or may not report due to assorted reasons, but there still should be services for this population that is also not included in SDVCJ. Finally, only 22% (U.S. Department of Minority Health, 2018) of Native Americans reside on Indian reservations, which is a small number to address social change for protection against domestic violence. It is evident that SDVCJ has much needed amendments, but social change will not occur until tribal governments are on an equal level of government (like the federal government) to exert criminal jurisdiction on Indian reservations regardless the crime or the race of the perpetrator.

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