



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 17, 2017

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

We are pleased to submit the enclosed Report to Congress on the Ninth Annual Government-to-Government Violence Against Women Tribal Consultation, as required by Section 903(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as added by the Violence Against Women Reauthorization Act of 2013.

This law requires the Attorney General to report annually on recommendations made by Indian tribes during annual consultations with Indian tribal governments. By statute, the annual consultations are to address the administration of tribal funds and programs under the Violence Against Women Act of 1994 and its subsequent reauthorizations; enhance the safety of Indian women from domestic violence, dating violence, sexual assault, stalking, and sex trafficking; and strengthen the federal response to such violent crimes.

The enclosed Report to Congress describes the comments and recommendations made by tribal leaders at the Ninth Annual Government-to-Government Violence Against Women Tribal Consultation, held on October 15, 2014, and during the subsequent comment period. We have also enclosed the 2015 Update on the Status of Tribal Consultation Recommendations, which describes actions taken during Fiscal Year 2015 to respond to recommendations from Indian tribes, as well as DOJ's ongoing coordination and collaboration with Indian tribes, the Secretary of Health and Human Services, and the Secretary of the Interior to address these recommendations.

We hope the information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

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Peter J. Kadzik
Assistant Attorney General

Enclosures



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 17, 2017

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Madam Pelosi:

We are pleased to submit the enclosed Report to Congress on the Ninth Annual Government-to-Government Violence Against Women Tribal Consultation, as required by Section 903(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as added by the Violence Against Women Reauthorization Act of 2013.

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January 17, 2017

The Honorable Robert W. Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Washington, D.C. 20530

January 17, 2017

The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Conyers:

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Peter J. Kadzik
Assistant Attorney General

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Washington, D.C. 20530

January 13, 2017

The Honorable Don Young
Chairman
Subcommittee on Indian, Insular
And Alaska Native Affairs
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

We are pleased to submit the enclosed Report to Congress on the Ninth Annual Government-to-Government Violence Against Women Tribal Consultation, as required by Section 903(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as added by the Violence Against Women Reauthorization Act of 2013.

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Washington, D.C. 20530

January 17, 2017

The Honorable Raul Ruiz
Ranking Member
Subcommittee on Indian, Insular
And Alaska Native Affairs
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Ruiz:

We are pleased to submit the enclosed Report to Congress on the Ninth Annual Government-to-Government Violence Against Women Tribal Consultation, as required by Section 903(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as added by the Violence Against Women Reauthorization Act of 2013.

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January 17, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Dear Mr. Leader:

We are pleased to submit the enclosed Report to Congress on the Ninth Annual Government-to-Government Violence Against Women Tribal Consultation, as required by Section 903(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as added by the Violence Against Women Reauthorization Act of 2013.

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Washington, D.C. 20530

January 17, 2017

The Honorable Charles E. Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Mr. Leader:

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January 17, 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Washington, D.C. 20530

January 17, 2017

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator Feinstein:

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January 17, 2017

The Honorable John Hoeven
Chairman
Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Assistant Attorney General

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Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 17, 2017

The Honorable Tom Udall
Vice Chairman
Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Senator Udall:

We are pleased to submit the enclosed Report to Congress on the Ninth Annual Government-to-Government Violence Against Women Tribal Consultation, as required by Section 903(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as added by the Violence Against Women Reauthorization Act of 2013.

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**Report to Congress on the Ninth Annual Government-to-Government
Violence Against Women Tribal Consultation: An Introduction**

The Ninth Annual Government-to-Government Violence Against Women Tribal Consultation (Ninth Annual VAW Tribal Consultation or 2014 consultation) was held in Rapid City, South Dakota, on October 15, 2014. Tribal leaders from across Indian country participated in this important event to share their recommendations and concerns regarding violence against American Indian and Alaska Native women, and submitted written recommendations on how the Department of Justice (DOJ) and other federal agencies can improve the United States government response to violence against Indian women. Section 903 of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) requires an annual report to Congress on DOJ's annual violence against women tribal consultation that (1) contains Indian tribes' recommendations, (2) describes actions taken to respond to the recommendations, and (3) describes how the Attorney General will work in coordination and collaboration with Indian tribes, the Secretary of Health and Human Services, and the Secretary of the Interior to address the recommendations. See 42 U.S.C. 14045d(c).

To comply with this Congressional reporting requirement, DOJ encloses two documents that, collectively, constitute this report to Congress on the Ninth Annual VAW Tribal Consultation:

- *U.S. Department of Justice, Office on Violence Against Women, 2014 Tribal Consultation Report:* This report describes the comments and recommendations received from tribal leaders at the 2014 consultation and during the subsequent comment period.
- *2015 Update on the Status of Tribal Consultation Recommendations:* This report provides a comprehensive update on activities undertaken during Fiscal Year 2015 to respond to recommendations made during the 2014 consultation, implement tribal provisions of the Violence Against Women Act, and address violence against Native women. It also describes ongoing coordination and collaboration with Indian tribes and the Departments of Health and Human Services and the Interior. This Update was sent to tribal leaders in preparation for the Tenth Annual VAW Tribal Consultation, which was held on November 15, 2015, in Shelton, Washington.

U.S. DEPARTMENT OF JUSTICE
OFFICE ON VIOLENCE AGAINST WOMEN

2014 Tribal Consultation

REPORT



Working Together to End the Violence

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Introduction and Background

Title IX, Section 903 of the Violence Against Women Act of 2005 (VAWA 2005), as amended in VAWA 2013, mandates that the Attorney General conduct annual consultations with Indian tribal governments about the administration of VAWA's tribal funds and programs. Three general topics are identified for consultation, and the Attorney General and federal partners are directed to solicit recommendations from Indian tribes concerning the following:

1. administering tribal funds and programs;
2. enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, stalking, and sex trafficking; and
3. strengthening the federal response to such violent crimes.

The testimony from tribal leaders and other representatives summarized in this report was given at the annual consultation event hosted by the United States Department of Justice (DOJ) pursuant to this legislation.

Government-to-Government Consultation Event

The annual Government-to-Government Violence Against Women Consultation was held Wednesday, October 15, 2014, at the Best Western Ramkota Hotel, in Rapid City, SD. On October 14, DOJ held a half-day training session on federal criminal databases, requirements for accessing and submitting information to the databases, and current DOJ efforts to increase tribal access to these databases. On October 16, following the consultation, additional sessions were conducted by the Office of Justice Programs.

Welcome and Introductory Activities

On Wednesday morning, Lorraine Edmo (Shoshone-Bannock), Deputy Director for Tribal Affairs in the Office of Violence Against Women (OVW), welcomed the assembled attendees to the Ninth Annual Violence Against Women Government-to-Government Consultation and began the opening activities of the consultation.

The Flag Song was performed by host drum Ateyapi and lead singer Whitney Rencontre II. Colors were presented by the Native American Veterans Association Post #1 of Rapid City, SD, staffed by Master Sergeant Dino Holy Eagle (Cheyenne River Sioux) and Corporal Ed Cut Grass (Oglala Sioux).

The Shawl Ceremony was led by Carmen O'Leary (Cheyenne River Sioux), director of the Native Women's Society of the Great Plains. Shawls were placed on four empty chairs at the center of the room to represent women who were murdered and missing, women who were survivors of domestic violence, dating violence, and sexual assault, and men who are victims and survivors.

The Honorable Roxanne Sazue, Chairwoman of the Crow Creek Sioux Tribal Council, offered a traditional opening for the consultation session.

Welcoming Remarks

Ms. Edmo then invited a tribal representative and a federal representative to offer welcoming remarks to open the government-to-government consultation session.

Cyril Scott, President, Rosebud Sioux Tribal Council

President Scott welcomed attendees to the sacred Black Hills, to the Rosebud Nation, and to the land that is home to so many tribes in North Dakota and South Dakota. He also recognized and remembered a “great lady” from the Rosebud Sioux Tribe—Tillie Black Bear, who passed away during 2014. Ms. Black Bear was the founder of the White Buffalo Calf Woman Society and an honored leader in the fight for the safety of Native American women from domestic violence.

Mr. Scott called on the attendees to address all forms of violence—violence against women, but also violence against children, lesbians, gays, transgender people, and men. Violence against women cannot be adequately addressed unless the violence that targets other groups is also recognized and healed. He called for increased support and protection for women victims of violence by providing more victim advocates in Indian Country, comprehensive training to law enforcement, and increased staffing in legal systems so that cases can be prosecuted successfully. Finally, he asked the audience to recognize the widespread consequences of violence that affected victims, perpetrators, witnesses, and families, and to enhance mental health programs and other supports to assist all of those affected.

Brendan V. Johnson, United States Attorney, District of South Dakota

Mr. Johnson welcomed the audience, remarking that he recognized many South Dakota advocates around the table who were involved in responding to human trafficking and educating the community about it. Many of the Native American women who have disappeared were part of commercial sex trafficking rings. In South Dakota, the majority of victims in trafficking rings have been Native American teens. In talking about violence against women, it is important to make sure that sex trafficking is part of the conversation. It is increasing, especially in areas like the Bakken oil fields.

He told the audience that “we can’t prosecute our way to ending domestic violence against women.” It is not a solution to say that all cases should go federal. Greater progress will be achieved by tribes adopting VAWA, beginning to exercise criminal jurisdiction against non-Indian defendants, and adopting the Tribal Law and Order Act (TLOA) provisions. The best solutions will come from tribes themselves.

Introduction of Federal Partners

Ms. Edmo introduced the other federal partners participating in the consultation and thanked them for attending. Additional representatives from the Department of Justice included:

- **Bea Hanson**, Principal Deputy Director of the Office on Violence Against Women
- **Marcia Hurd**, Counsel for the Director, Office of Tribal Justice
- **Shawn Matthews**, Supervisory Special Agent, Indian Country Crimes Unit, Federal Bureau of Investigation

As mandated in VAWA 2013, the consultation was attended by officials representing the Secretary of Health and Human Services and the Secretary of the Interior. Representatives of these agencies included:

- **Mario Redlegs** (Standing Rock Sioux Tribe), Special Agent in Charge for District 1, Office of Justice Services, Bureau of Indian Affairs, Department of Interior
- **Dr. Beverly Cotton** (Mississippi Band of Choctaw Indians), Director, Division of Behavioral Health, Indian Health Service, Department of Health and Human Services

Consultation Opening Remarks

Bea Hanson, Principal Deputy Director of OVW, offered opening remarks for the consultation, including summarizing DOJ efforts over the past year and introducing DOJ consultation questions and topics. Ms. Hanson also acknowledged the passing of Tillie Black Bear, recognizing her as a leader who founded the first Indian women's shelter in 1978 and who brought the voices of women from Indian Country to a national platform for the first time.

Ms. Hanson brought greetings from the new Acting Associate Attorney General, Stuart Delery. New in his role, Mr. Delery was unable to attend this consultation. Ms. Hanson conveyed his strong commitment to addressing violence against American Indian and Alaska Native women and his intentions to be present at DOJ tribal consultations and meetings in the future.

Update from Last Consultation

Since 1998, OVW has distributed more than \$290 million to more than 230 tribes to address violence against American Indian and Alaska Native women. While the money is never enough to meet the current needs, it demonstrates DOJ's commitment to protecting women in Indian Country.

The rates for domestic violence against Native women are among the highest in the United States. On reservations, women can face victimization rates that are 10 times the national average. Domestic violence workers and other resources can provide early interventions that are successful in stopping cycles of violence, and advocates and professionals in Indian Country have been working tirelessly to accomplish this.

In a brief review of activities since the last annual government-to-government consultation, Ms. Hanson highlighted DOJ efforts in the Bakken region in Montana and North Dakota. This region is near the reservation of the Fort Peck Assiniboine and Sioux Tribes, in northeastern Montana, and the Fort Berthold Reservation of the Mandan, Hidatsa, and Arikara Nation, in western North Dakota. Rapid development for oil production in the Bakken region has brought a massive influx of itinerant workers and a sharp increase in crime and law enforcement issues, including sex and human trafficking. DOJ has funded a \$3 million Bakken Region Initiative to support tribal and local victim services and has created two new Special Assistant United States Attorney (SAUSA) positions that are cross-designated to try cases in tribal and federal court.¹

¹ The two new tribal SAUSA positions will join four existing tribal SAUSA positions currently established with the Pueblo of Laguna (New Mexico), the Fort Belknap Tribe (Montana), the Winnebago Tribe (Nebraska), and the Standing Rock Sioux Tribe (North Dakota and South Dakota).

In addition, in 2014 DOJ has offered dozens of trainings on Indian Country issues through the Executive Office for United States Attorneys. These trainings reached approximately 30 U.S. Attorneys' offices with attorneys serving Indian Country. DOJ also provided training that reached staff from 200 tribal, federal, and state agencies.

In 2014, the National Institute of Justice (NIJ) continued research activities supporting the Violence Against Indian Women National Baseline Study. These activities were discussed further during a lunch presentation by Christine Crossland, Senior Social Science Analyst at NIJ, and Ada Pecos Melton, Project Director of the National Baseline Study research contract (see page 60 for a detailed summary).

In response to input from last year's consultation about the usefulness of peer-to-peer communication with other tribes to exchange experiences and information on legal and jurisdictional issues, DOJ established the Intertribal Technical Assistance Working Group on Special Domestic Violence Criminal Jurisdiction. During the year, 40 tribes have voluntarily joined the working group and engaged in meetings, webinars, and other exchanges of information. DOJ supported the working group with training and technical assistance, including a 3-year award to the National Congress of American Indians (NCAI), working in partnership with the Tribal Law and Policy Institute (TLPI) and the National Council of Juvenile and Family Court Judges (NCJFCJ), to support the working group's ongoing activities.

Summary of DOJ Consultation Topics

After reviewing the past year's activities, Ms. Hanson introduced several consultation topics and provided framing papers to offer questions and background information.

Consultation Regarding Formula Distribution of Tribal Government Program Funds

Since the annual Government-To-Government Violence Against Women Tribal Consultation in 2012, OVW staff has engaged in consultation with tribal leaders on an ongoing basis on the question of whether OVW should shift its approach to distributing funds to tribal governments from a competitive, discretionary model to an annual formula distribution.

Tribal leaders and tribal advocates did not reach consensus on the issue. In 2012, a majority of tribal leaders expressed some support for the concept of formula funding, but requested more information about what formula distribution might mean for individual tribes. In response to this request, DOJ created a model with several options and specific examples of how tribes might be impacted.

After discussion in the annual consultation and in working groups, most tribal leaders agreed that the implementation was not currently feasible because funding levels would not allow for basic services for all tribes in addition to maintaining successful, previously established tribal programs. As a result of the consultation process, OVW determined that formula distribution is not appropriate at this time.

OVW provided this information at the 2014 consultation as an update to previous consultation discussions on this topic. For more information, please see Appendix 4.

DOJ also provided framing papers requesting comment from tribal leaders on a number of specific topics. For a detailed discussion and background for each of these topics, see Appendix 5. DOJ posed the following questions.

Sex Offender and Personal Protection Order Registries

- Should OVW fund a training and technical assistance provider to work with tribal law enforcement and tribal courts to increase the number of tribal court protection orders entered into the National Crime Information Center Protection Order File (NCIC POF), and also to work with state and local officials to ensure that such agencies entering tribal protection orders into the NCIC POF are properly coding the orders so that they are identified in the NCIC POF as a tribal order?
- Should OVW fund a training and technical assistance provider to develop an operational plan and program guidance for development and maintenance of a public sex offender registry for tribes? Should OVW fund this Training and Technical Assistance provider to do strategic planning with tribes interested in submitting offender information to the VAWA 2005 Section 905(b) Tribal Sex Offender Registry? Should the VAWA 2005 Section 905(b) Tribal Sex offender Registry be limited to tribes that are not maintaining or implementing sex offender registries pursuant to the Sex Offender Registration and Notification Act (SORNA)?

STOP Formula Program and State Consultation with Tribes

- How should states recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund culturally specific services and activities for underserved populations are distributed equitably among those populations?
- What does it mean for a state to consult with tribes? This includes both whom they should include and how.

Bureau of Prisons Pilot Program

- Would your tribe support legislation extending the Bureau of Prisons (BOP) tribal prisoner program?
- Should the current project be extended as a pilot project, or should it be instituted as a permanent project?

Tribal Leader Testimony

After the review of DOJ consultation topics and background information, tribal leaders seated around the table introduced themselves to the group, and testimony began. Oral testimony given during the consultation is summarized below, and summaries of written testimony are also included if submitted by the tribe.

Anvik Village, Anvik, Alaska

Carl Jerue, Jr., First Chief

Alaska has been forgotten by the U.S. government. Our village has 80 people, and the lack of resources is severe. There are no roads that lead to Anvik. The only way to get there is by plane—or by boat in the summer or snow machine in the winter.

For the past 35 years, we've seen many of the same problems. We have no law enforcement. The nearest law enforcement is 90 miles away by air. When a sexual assault or domestic violence crime happens against a woman, there are no health facilities for us to take her to. We have one clinic with one health aide who has no specialized training or resources.

We had an incident last week where we called for law enforcement and they simply never came. There was another recent incident in a nearby village where a mother and father were murdered. This happened at about 9 p.m. There was no response from the state troopers, no response from village police, no community health aide, nothing. Community members apprehended the suspect and kept him all night until noon the next day when law enforcement showed up. When we return to our village, we'll have to go and pay our respects to the families of the victims of that tragedy.

Tami Jerue, Social Services Director

I have worked in social services for the tribe for many years. The tragedies that Carl referred to kept some other representatives from Alaska from coming to this consultation.

Alaska has 229 tribes, and 228 of them are excluded from VAWA 2013 under Section 910. We want Section 910 repealed so that our villages will have equal protection under VAWA. Part of the issue is the remoteness of Alaska villages, the lack of resources that results from the remoteness, and the extremely high cost of services that may be available on many reservations in the lower 48 states, even though they are remote. We face the costs of travel—of actually transporting someone in to provide services.

In the incident mentioned, law enforcement didn't arrive for 16 hours. The victims had to lie there in their home and nothing could be touched. Family and community members had to restrain the suspect during that time. As you can imagine, this was extremely difficult and emotionally charged. Experiences like this increase the trauma for the family and community members.

We need base formula funding. I understand that it was considered and that there was no agreement on this topic, but I would still encourage base formula funding for other programs. And the formula should be based on tribal enrollment numbers, not census numbers. Our communities are small in population because people leave, but you need to understand that we don't just provide services to people within the borders of our villages. We work with people who don't even live there.

There should be a tribal set-aside under the Victims of Crime Act (VOCA). In Alaska, there aren't many options for us to access victim funds through the state, and our efforts to work with the state have not been productive. The tribal set-aside would facilitate our access to these resources in Alaska.

Another issue in Alaska is full faith and credit for tribal protection orders. Alaska already “requires” us to register our protection orders if they are to be acted on by anyone besides tribal and village police officers. However, we perform this registration as a courtesy and to protect our victims. We were very concerned when we got a letter from the state saying they wouldn’t recognize a protection order because it didn’t look like a state order. They do not have the right to mandate what our orders look like; we are sovereign and determine these things for ourselves.

Anvik is considering requesting the Attorney General to resume federal jurisdiction over crimes in our area. The double-murder example wasn’t the first case like this in our village in the last year, and it wasn’t even the second. Sexual assault is routinely not investigated—every person in every village can tell you about not having a response, whether through health care, law enforcement, or an advocate. This is epidemic, and we’re not getting basic services to protect victims.

Regarding the murdered and missing, we’re in consensus with other tribes to request that DOJ form a high level working group to create a response protocol for cases like these. Tools like the Internet and Facebook have helped, but even with those, it can be years before we confirm that someone was, in fact, missing, and hadn’t just gone to live in an urban area.

Alaska has failed completely in protecting Alaska Native women, and they do not consult with us regarding STOP funds. Where is the justice when we are targeted daily? We are told to move from our homelands to urban areas, and to live in shelters, instead of having services and resources to provide to our victims.

Written Testimony from Carl Jerue, Anvik First Chief

Carl Jerue submitted written testimony on behalf of Anvik Village, as well as giving oral testimony. Points not addressed in Mr. and Ms. Jerue’s oral testimonies are summarized here.

We currently have Coordinated Tribal Assistance Solicitation (CTAS) grants, and yet we struggled to write the grants and identify how we could utilize funds to really effect long-term change for our people.

We have been fortunate to have a tribal police officer and a village public safety officer who is funded and supervised through the Alaska State Troopers. The tribal police officer is funded through a Community Oriented Policing Services (COPS) grant to our tribe, but minimal training is available for the position. Our health care system is similar to our law enforcement in that we have paraprofessionals funded through the regional tribal health corporation, but they are not trained for domestic violence and sexual assault response.

Section 910 of VAWA unfairly excludes Alaska Native women from the protections that are afforded to other women in Alaska and in the rest of the country. DOJ and the Department of the Interior (DOI) should work immediately with Congress to repeal Section 910 and consult with Alaska Native tribes on the possible convening of an Alaska intertribal working group to discuss tribal justice system development.

The “Land Into Trust” rule should be implemented immediately. Placing land in trust in Alaska is necessary to ensure that tribes have the authority to protect their Native women.

The passage of VAWA clarified civil protection order power over all persons in tribal courts, and part of the answer for villages that do not have state courts, but do have tribal courts, is the ability of tribal courts to issue local protection orders. However, Section 910 has caused confusion in the state of Alaska and in Alaska Native villages over whether tribal courts can, in fact, issue and enforce orders to protect women. OVW should coordinate closely with other offices in DOJ and DOI to hold the state of Alaska responsible for recognizing and enforcing protection orders issued by Alaska tribal courts. The state has been out of compliance with VAWA on this issue for too long, yet they continue to receive STOP formula funding each year.

OVW should dedicate Tribal Sexual Assault Services Program funds specifically to support Alaska Native village-based advocacy services. Indian Health Service (IHS) should also require all contracted health care providers, such as those serving Alaska Natives, to train staff, adopt and implement sexual assault response protocol, and ensure 24/7 local access to sexual assault forensic examinations and medical care.

The Village of Anvik strongly supports increasing overall Family Violence Prevention and Services Act (FVPSA) appropriations, from the tribal allocation of 10% to at least 15%, and the creation of a separate, annual, noncompetitive funding source specific to Alaska Native tribes out of the FVPSA tribal allocation.

Anvik joins other Alaska tribes in recommending that the OVW Tribal Government Discretionary Grant Program be changed to an annual formula-based allocation. Most Alaska Native village governments don't have access to grant writers, and many lack consistent access to Internet. Over the last 20 years under VAWA, no more than 20 Alaska Native village governments have ever received funding under the current OVW grant program.

The Village of Anvik reports that the state of Alaska did not provide notice or properly consult and coordinate with the Village in developing the state STOP implementation plan. The state's plan was submitted to OVW without consulting with Alaska Native villages, counter to the requirement for consultation under VAWA 2013. We have also been informed by the state that tribal governments are not eligible to apply to the state for access to state STOP funds. We request that OVW and the FVPSA Office work with the state of Alaska to ensure that 1) tribal governments are eligible to apply to the state for STOP formula funding and FVPSA funding, and 2) that the state consult and coordinate with all Alaska's tribal governments.

Anvik joins other Alaska tribes in recommending that OVW should open an office in Alaska staffed by individuals who understand the unique legal and jurisdictional circumstances of Alaska Native tribes, with the understanding that policies must be changed and redesigned to meet specific needs of Alaska Native tribes, given their histories and realities. OVW and FVPSA should also set aside technical assistance funding in FY 2015 for the Alaska Native Women's Resource Center to provide policy development and technical assistance to Alaska Native villages, as well as to provide training and technical assistance to OVW and other federal agencies, and to the state. It is long overdue that DOJ, DOI, and the Department of Health and Human Services (HHS) begin regular consultations with Alaska Native tribes, including supporting attendance for tribal leaders in Alaska.

Anvik supports the 2013 and 2014 Alaska Federation of Natives (AFN) resolutions on protecting Alaska Native women from violence², and we encourage OVW to work with FVPSA to support training and technical assistance designed and provided by the Alaska Native Women's Resource Center, village-based women's advocates, and tribal governments.

Anvik is concerned over the proposed Alaska Safe Families and Villages of 2014. While we certainly support the repeal of Section 910 of VAWA, the rest of the act does not go far enough in supporting local village authority over law enforcement. We would like DOJ to work to strengthen legislation that supports tribal capacity for justice and safety.

The Village of Anvik supports the federal government departments, including DOJ, DOI, and HHS, in their work to achieve the recommendations in the November 2013 report of the Indian Law and Order Commission (ILOC), especially regarding the development of local tribal capacity to respond to violence against women crimes.

As fortunate as we have been to receive OVW and CTAS grants and FVPSA funding, we are still challenged by many issues. We look forward to working with other tribes in Alaska and across the country, allied organizations, OVW, and the federal government to ensure that the federal trust responsibility is carried on in a meaningful way for Alaska Native tribes and Native women.

Confederated Tribes of the Umatilla Indian Reservation, Pendleton, Oregon

Leo Stewart, Board of Trustees Vice Chairman

In the discussion of violence against women, it's important to recognize that our men have been devastated, too. Our treaties and respect have been taken away. Because our men are hurt on the inside, they can no longer be responsible in the traditional ways, and there is a lot of healing that needs to take place. If this healing can happen, our men and our families will be freed up to be more respectful toward women. We need to create and support opportunities for men to come out of themselves to engage in the world and in their own family structures.

The biggest issue for us is the proposal that OVW shift to formula funding. Our funding is only sufficient for one full-time employee, and any decrease in that funding would be devastating to our program.

Umatilla has been part of the BOP pilot program under TLOA, where individuals who have committed violent felonies serve federal sentences in BOP prisons, free of charge to the tribes. It's critical that tribes be able to continue to exercise felony sentencing; Congress must act to make this permanent.

VAWA set aside \$5 million for pilot projects on the prosecution of non-Indians, and Congress has not appropriated those funds. The three tribes that have implemented VAWA 2013 authority have done so without federal assistance. OVW needs to push Congress to appropriate these funds!

² In 2013 and 2014, AFN passed resolutions addressing the safety of Alaska Native Women: in 2013, Resolution 13-14 was titled Protect Alaska Native Women, and in 2014, Resolution 14-45 was titled Increasing the Safety of Alaska Native Women. Full text of both resolutions are available for download from AFN's website: <http://www.nativefederation.org/publications/resolutions/>

Education for tribal leaders about domestic violence needs to improve. This is mainly an issue for tribes themselves, but if OVW could offer some assistance in educating tribal leadership, it would be very helpful.

It's important that we keep the gains that have been made in the past several years. The current federal administration is ending soon, but during it, great things have happened in federal and tribal communication and coordination. These positive changes need to be institutionalized so that they can be maintained in future administrations, and so the growth we have started can continue.

Desiree Coyote, Family Violence Services Program Manager

I have worked for 19 years in rural Oregon, first for a nonprofit organization, then a coalition, and then for the tribe. In those years, I've also had the opportunity to be part of the Governor's council, the Attorney General's elder abuse task force, and the Attorney General's sexual assault task force. With that background, I can share that it's very important that tribal nations and funders understand the difference between funding tribal nations and funding coalitions. Entities that receive certain types of dollars are already obligated to provide services.

Starting 4 years ago in my work with Oregon's crime services division, the state requested that tribal nations become part of the board that was responsible for implementing STOP programming. It was very interesting to see how the state believed they should work with tribal nations.

On the board, we spent the first half-year just learning about each other. We began with trying to understand the resources that each of Oregon's nine tribes had available on reservation. I visited all nine tribes, and learned about local victim assistance programs and local nonprofits. We created an email list so that any information shared by the state would also be put out to tribal nations. Oregon also ensured that tribal nations were invited to attend the annual directors' day—and that Oregon's Department of Justice paid for travel and expenses so they could attend. Tribal nations have now been participating for 3 years.

As Oregon develops a state implementation plan, they begin work almost a year in advance. This year, they are looking at underserved and marginalized populations, and how tribes should be included. All nine Oregon tribes have been invited to attend in person or by web. The state also partners with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) to put on a tribal-state summit, and they provide funding for tribal and non-tribal advocates to attend and work together. Our work extends into Idaho and Washington, because Pendleton is right on the border, and I work with shelters in those states. The gaps in services across these areas are huge. The tribal-state summit also includes representatives from these bordering states.

The state puts out \$20,000 per tribe per year, and the majority of Oregon tribes never apply for these funds. The rules around mingling monies with grants and other funding sources make this very difficult. I appreciate that DOJ has set aside the question of moving to formula funding, because that change would devastate the program that we have now.

It's uncomfortable and scary to talk about inequities, but I'm glad to see a push from VAWA to address these issues, and a move towards a civil rights focus in how to provide these services fairly. We need to address racism in the shelter network and in domestic violence and sexual assault

agencies. The issues of lesbian, gay, bisexual, and transgender needs have also been a long time in coming. If the staff of an organization or a board is not representative of the people they serve, it's hard to adequately address issues of marginalization. Service providers don't always know if they can gather data on the people they serve, such as asking if someone is a tribal member, and they don't know how to bring it up. With nontribal entities, or even within tribal services, it's a mixture of Native and non-Native people. Not all of our police officers are members, for example, and most aren't even Native. The issues of inequality are always playing out across many different entities in how issues are handled or ignored, and how services are provided for people.

Brent Leonhard, Associate Attorney General

Yesterday's training on NCIC was excellent. In answer to the consultation question about what to do with the allocated money for a tribal registry, it would be a great idea to reprogram the money for tribes to have access to NCIC without depending on the state to do it. We have had problems working with the state. Oregon's interpretation of their responsibility to work with tribes on this issue has not been helpful.

Written Testimony from the Confederated Tribes of the Umatilla Indian Reservation by Gary Burke, chairman of the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation

Written testimony by Gary Burke, chairman of the Board of Trustees of the CTUIR, was submitted. Some of its points were addressed by Leo Stewart in his oral testimony, and the remaining points are included here.

CTUIR implemented felony sentencing under TLOA in March 2011. Since that time, there have been many felony prosecutions, and several individuals have been sentenced to over 2 years in jail. Currently, our tribe has three individuals housed in federal prison under the BOP TLOA pilot program. This program is critical to CTUIR's ability to exercise felony sentencing authority. If the three individuals receiving felony sentences were housed at CTUIR's expense, it would consume 60% of the tribe's annual detention budget. The BOP program needs to be made permanent.

Pursuant to 28 USC 534(d), the Attorney General is required to permit tribal law enforcement agencies to access and enter information into federal criminal information databases. The Attorney General and, more particularly, the Federal Bureau of Investigation (FBI) have never abided by this requirement. While the FBI may maintain that that tribes have this ability because states can allow tribes access to the system, the reality is that this rarely happens. CTUIR has been lucky to have access through DOJ's Justice Telecommunications System (JUST) under the existing pilot project. But before exercising this access, CTUIR must be staffed with 24/7 dispatch coverage by trained individuals.

If the creation of a national tribal protection order database, as described under VAWA 2005, is unattainable, CTUIR support repurposing the funds to implement a process that gives all tribes entry and retrieval access to existing databases. The JUST pilot project could be expanded by hiring full time DOJ staff to serve as tribal Criminal Justice Information Services (CJIS) Systems Agency representatives. If access is accomplished through a DOJ-operated CJIS Systems Agency (CSA) system, it needs to allow entry ability even when a tribe has less than 24/7 coverage.

Access might also be accomplished by mandating that each memorandum of understanding (MOU) the FBI has with states includes a guarantee that the state will permit tribes to enter and retrieve federal criminal database information through the state's current CJIS access arrangements. If access is accomplished through the states, MOUs must include a provision that prevents the state from requiring tribes to do more than what is required of the state, such as requiring tribes to waive their sovereign immunity.

Along with the \$5 million set aside for pilot projects for non-Indian prosecution, OVW should advocate for a 10% VOCA permanent tribal set-aside. VOCA funds are broadly used for victims of crime and other public safety matters like the investigation of child abuse. In advocating for the permanent tribal setaside, OVW should ensure that the scope of the setaside be broad and general enough that tribes can apply the funds to their unique public safety needs.

Resources should be devoted to ensuring a prompt professional response to missing persons within and near Indian Country. Tribes have noted that the response to missing persons in Indian Country is inadequate compared to the response outside of Indian Country. DOJ should consider creating an Indian Country cold case task force made up of highly skilled United States attorneys and FBI agents. Solving cold cases requires special expertise that is lacking in most Indian Country law enforcement communities. A specialized task force could focus resources and talent within DOJ to solve long-standing Indian Country crimes.

The many positive changes that have occurred within the administration since 2010 must be institutionalized. Coordination and communication between many U.S. Attorney District Offices and tribal prosecution and law enforcement has improved dramatically, and these changes must be sustained in future administrations. DOJ should consider creating best practices for U.S. Attorney District Offices in working with Indian Country, including practices such as:

- allowing tribal law enforcement or prosecution to refer cases directly to U.S. Attorneys rather than having to rely on Bureau of Indian Affairs (BIA) or FBI agents;
- regular communication and quarterly face-to-face, on-the-ground case review meetings in Indian Country;
- hiring permanent, full-time tribal liaison positions in District Offices that persist through administration changes, particularly in offices that cover a significant number of tribes; and
- routinely using tribal SAUSAs to help improve federal-tribal coordination and communication.

La Jolla Band of Luiseño Indians, Pauma Valley, California

Lavonne Peck, Chairperson

I have seen positive changes in the last 5 years for domestic violence. As a tribal leader, you have to pick what issue you will take up on behalf of your people each day, because of all the pressing needs that our reservation has. I am often defending our tribal leaders, trying to explain why they aren't here. Violence against women is an issue that more tribal leaders must begin to stand up for, because our voices will be louder if there are more of us.

Despite that, this is a very long way to travel for 1 day of consultation. Because tribal leaders are inundated with requests for consultation on so many different topics, it can sometimes feel like federal agencies are holding consultations just to check a box and mark down that they have fulfilled their obligation to consult with tribes. We know that's not the case here, but it is still difficult.

On the Hill, when we lobbied for VAWA 2013, the biggest request we heard was for information, for a fact sheet on domestic violence in Indian Country. Elected officials just didn't know. As Indian tribes, we are exercising our sovereignty—we are the governors, vice chairmen, and attorney generals of our nations. We need to be seeing the people in those same positions to be consulting at the same level.

I disagree with DOJ's decision on formula funding. So many programs are discretionary in the federal budget. We need line items for all our issues so they are not discretionary. There should be set-asides, and it's time that we, as Indian people, are vying for the money that we need in Indian Country. Competing against other tribes in a competitive grant process is inconsistent with the federal trust responsibility. The federal government promised to provide for the essential needs of all tribes—not just those with grant writers and administrators. We all need to be able to develop baseline services and have the foundation of funding necessary to do so. Tribes with the best grant writers are favored in the discretionary process, while the others have the most need and no technical assistance available to them. DOJ should develop a clear solicitation application that can be filled out easily so there's no mistaking what's missing.

Suicide is an issue that ties into domestic violence and sexual assault. How many of the young men and women who die by suicide have experienced sexual assault? And does that play a role?

DOJ should plan a consultation with tribes in PL 280 areas. We do not have strong relationships with federal justice agencies. If these tribes had more time with federal agencies, it could spark real change.

VOCA funding should include a permanent tribal set-aside, as has been repeatedly requested by tribes. Everyone thinks that you have a casino that provides funding for our tribal services, but of the 111 tribes in California, only 65 have casinos.

OVW needs to explain why we have to keep explaining and justifying our law enforcement needs. States don't have to continually justify their need for essential criminal services.

Another problem that we face with this funding is the recent requirements that don't let us use funds for food and beverages when we have trainings on domestic violence and sexual assault. Offering food is the way we get people there, and it's very hard to do outreach when there's no money to feed people. It all goes back to the \$16 muffin scandal, but these restrictions continue to make it very difficult for tribes.

My colleagues have already called for the repeal of VAWA Section 910. I'm extremely disappointed that we even have to continue to bring up this issue at these consultations.

Lower Elwha Klallam Tribe, Port Angeles, Washington

Frances Charles, Chairwoman

We lack training resources and funding for training of our staff and law enforcement officials. These resources are especially important because we train new officers and other organizations, even casinos and gaming organizations, take them away. We train them and we lose them.

There are many, many cases on our reservation that are hampered by jurisdictional issues. Our land is checkerboarded and we are also directly on the Canadian border. To address these jurisdictional issues, we continue to conduct outreach and education to local governments and agencies in our territories. We have done a great deal of work to get people to recognize our warrants, including having MOUs with local agencies, and they still won't pick up people with warrants who are off-reservation. Right now, the right to conduct background checks for foster care is being taken away from tribes. We are also particularly alarmed by border issues. Resources that go to border patrols should be transferred to local communities, because that's where the impacts of drug trafficking are felt.

We are in the process of revising our tribal codes, particularly because requirements from the state and federal government are being imposed on us. To implement these, we need more resources, and we need a prosecutor. We are also facing barriers in our work on data compliance and HIPAA compliance.

From July 2013 to July 2014, our domestic violence advocate, Beatriz Arakawa, has provided services to 85 victims. Of these, there were 3 men and 82 women.

There are no STOP programs in our area or opportunities to be involved that we've been made aware of. At times, we can be completely unaware that grants are out there and this is why it would be better for the federal government to provide direct funding to tribes, rather than sending funding through the states. States often fail to recognize or consider tribes, and I know that other states face these challenges, too.

We plan to attend the next NCAI event, and we agree with and support their Policy Insights Brief on violence against Native women.³ Even within tribal councils, there is a lack of training and knowledge about violence against women.

Spokane Tribe of Indians, Spokane, Washington

Gene "Bear" Hughes, Tribal Council Member

I'm glad to hear that DOJ plans to continue competitive grants, but one area to address is the flexibility with which award money can be spent. The regulations limiting the ways money can be spent bind us all, and we need to see more flexibility.

The Spokane Tribe has received a housing grant from the Bill and Melinda Gates Foundation for a 3-year shelter program for victims of domestic violence. There are so many restrictions on how the money may be spent that we are having difficulty spending it. What good is a grant award when, at

³ NCAI Policy Research Center, Policy Insights Brief: Statistics on Violence Against Native Women, February 2013. This brief is available online here: http://files.ncai.org/broadcasts/2013/February/Policy%20Insights%20Brief_VAWA_020613.pdf

the end of the year, you have to give it back because you weren't able to spend it? There are so many services we could be providing to victims, but we are handcuffed by the regulations. DOJ must look into more flexible spending for its grant awards.

Before serving on the tribal council, I was on the bench for 6 years. I love VAWA, but in the final version of VAWA 2013, we sold out. We had to sell something to get it passed, and we sold out Alaska Native villages in Section 910. We sold out children, too, because VAWA does not provide protections for children of Native and non-Native parents. I don't understand why these limitations exist in the law, because they deny important protections.

We have not entered into TLOA. We face limits in implementation resources and a shortage of tribal members who are "law trained." What do these standards mean, anyway? Our judges sat in the same classes as state magistrates, but now they're not considered as qualified? By requiring different judges and lawyers with different sets of qualifications, we are being asked to take our culture out of the courtrooms. These people aren't Spokanes—our culture is different, and they weren't raised on the reservation. We would rather preserve our culture and traditions than bring in legal officials who don't understand us.

Tribes are being revictimized with TLOA and VAWA. All of these new regulations are unfunded. Tribes in poverty can't pay for it. Money needs to be found to make these changes happen for tribes that want change and need help, because we do need better codes—we just don't have the resources to create and implement them.


Natives have kept our treaty promises, but the federal government has not. We have a poverty rate of 55%. We have to drive 50 miles away into an urban setting to access the services we need. When you're that far away, you lose the connection to your people. And friends and families can't afford to keep driving out there. The NFL and NBA are beginning to address domestic violence, and there is going to be large amounts of money dumped into addressing it. The government spends billions of dollars to help other people with these issues. We are sovereign within this nation, going through the same problems, and they pass us by and forget what they've signed. We have honored what we signed.

Standing Rock Sioux Tribe, Fort Yates, North Dakota

Jesse Taken Alive, Tribal Council Representative At Large

The words I want to share will likely put me in the "bad Indian" category, but I need to share with you what is going on at home. When appropriate funding is not awarded to us, please tell us which shelf our testimony is put on. We beg you to use your fiduciary responsibility to address our needs. In the past, Congress has ignored us, in no uncertain terms. During appropriations, we beg, and we hear the same answer: "We're so sorry, but maybe next year." The budget shortfalls that Congress is limited by were not created by Indian Country, and the United States still continues to rent our lands. You can be sure that the spirit of these truths and facts are being shared with our youngsters.

We're lucky to beg, I suppose, because the history of America is one of violence and conquering, and we end up in situations that need days like today. We are trying to continue as treaty partners, but we also know that our testimonies are being put on the shelf.



We need police officer accountability. There is no need for victims to be retraumatized or revictimized by macho police officers. There must be adequate training for them. Officers come and treat our women and children like dogs and animals, but a BIA captain said, “Don’t worry about it—tribal people can’t fill out the proper forms.” This creates a police state, and there’s a long liturgy of what happens when there is no officer accountability. Bureaucracy is one of the words for when the spirit and life of human beings get stuffed into a report. In the days when the forts were put up, there were massacres and acts of genocide, and the spirits of women and children got lost back there where there is no officer accountability. You won’t see people reporting domestic violence today because of revictimization and the lack of officer accountability.

In our culture, there are some fixes to this. One is ceremonies that help people understand the roles and responsibilities of men and women. There is a great need for education in our schools and communities. Even perpetrators are victims of something. It is sad to see child perpetrators, but it is even more devastating to see young people choose suicide as a way to deal with the pain of what happened to them as victims.

In South Dakota, we have a child trafficking process called the Indian Child Welfare Act (ICWA), where Native children are being damaged and hurt as we speak. We are doing everything we can and more to bring them home. This is also called colonization, but if you can rationalize and intellectualize it, it doesn’t hurt as much. What we really need is healing and ways to decolonize children’s spirits.

We’ve run into requirements around evidence-based versus practice-based solutions. We get stuck in those evidence-based attempts and it is painful to see people come and try to implement programs that are unfair and unhelpful. In the American Indian Religious Freedom Act, I don’t recall any requirements that we had to use evidence-based practices.

Practice-based solutions are sometimes called ceremonies, and it’s good to hear Mr. Johnson acknowledge that the know-how to solve these problems is already in Indian Country. It needs to be put in writing so all government bodies know that we should not be subjected to evidence-based solutions. Instead of meeting these programming requirements, we will accept the money awarded to us as treaty payments and as partial payments of the land rent that we are owed.

Recall that “kill the Indian, save the man” is the history of the United States of America. As we’re in a decolonization phase, it’s important to talk about the truth. We can do this in education. When young people wonder why we are where we are today, they need to know where it began. We’ve got all this data, and it hurts. There has already been censorship of these facts. This isn’t a race issue, it’s a legal issue, but America wants to hide behind the race card. The courts even said that treaties would be terminated. This is the spirit of pain and hurt that we have gone through for generations.

In the Lakota ways, women are important to society. When you see a mother in a home, you don’t ask, “Where’s the father?” But when you see a home without a mother, you ask, “Where is she?” Culture is severely compromised when the family breaks down, and when the family breaks down, society breaks down. Women have been the backbone of our society, and we need our women to be that strong woman, so they can continue to contribute to our society. When it comes to ceremonies,

women cannot be denied; she should never question herself because it is her spirit that leads these ceremonies. Without the respect for women's spirit, we cannot hold ceremonies among the Lakota people.

It is a challenge for the young people among us who are relearning the language. When you hear young people speak and understand us, there is an awesome spirit that comes with that. You can't put that under evidence-based successes.

Our customary law also should not be put underneath the category of evidence-based practices. I've seen these things happen, where values and practices are stuck under the most ridiculously disrespectful categories, and a scientific approach is used for human beings. There's no need for that if we are true treaty partners.

Another issue is money for legal representation. In America, you can be legal but not right. Our old people think that is a joke. You have to have money to be legal.

We can also approach this from a human rights perspective. How many times has Indian Country explained its needs and been told, "We're sorry, come back next year?" How long until we say these are human rights violations? We don't have American money, we don't have the population, but we have the truth. And we continue to cling to that truth. With truth, we have a culture, and with that truth, we see the language coming back.

We can forward you data about our needs, but the question remains: when appropriate funding is not awarded, what shelf is our testimony put on? When you deny our needs, that becomes another truthful part of American history. When we have to compete for resources, that, in itself, is very disrespectful.

But for now, let's put aside the dollar amounts for a bit. Let us allow the spirits of our women to speak to us. And the children who are in pain, who left us because of suicide and victimization; let their spirits be part of the day, too. This will inspire us to do the work that we do.

When we meet with the *millehaska* and then come back to our own people, they always ask us, what happened? As tribal leaders, we are asked, what did you bring home to share with us? We always tell them the same thing: Hopefully this year, the *millehaska* will show us compassion because they are human, but until then, keep the prayers going.

Phyllis Young, Tribal Council Representative At Large

I come to the table because of people like President Obama. I believe in treaty responsibilities, and I like to think we have a real partnership here, between tribes and DOJ.

A little history first: I am from the homeland of Sitting Bull. He said to pick up good things along the way, and we are trying to do that. In 1978, the American Indian Religious Freedom Act was enacted by Congress. In that same year, ICWA, written by Senator James Abourezk (South Dakota), was passed. Our homeland is where those great laws were born, out of the pain and shame of a relationship that needed to be mended.

Tillie Black Bear—we must never forget her name. She broke traditional law to address the American way. She challenged the gender roles among our people to speak out to enforce our ways and customary laws. She is the warrior that preceded all of us.

The Lakotas have endured the three most vicious attacks against us. The first was the Wounded Knee massacre. The second was the prohibition of our religions freedoms, from 1910 to 1978. The third is that the U.S. federal government took away our customary law when they passed the Major Crimes Act.⁴ They took away our customary law, and it has become an empty box.

In Lakota Country, there are seven values, like the seven sacraments in Christianity, and there are kinship laws and gender-based rules. Those customary laws are what traditionally protected women against violence or assault. To solve domestic violence and sexual assault, we need a partnership that includes the federal government, but also includes Lakota customary law, acknowledging our tribes, our culture, and our customs. A federal system of punishment can't do the job on its own.

The national sacrifice of our homelands has got to stop. Today is a deadline for the Keystone XL pipeline, and we are working to stop the pipeline from going through our lands. Standing Rock has our own methodology called a Social Impact Assessment to measure the impact of economic development. It measures how we have been affected by oil development in the Bakken and other costs like human trafficking. It measures the confusion of our young people and their involvement with drug cartels and methamphetamine. We are trying to protect what is left of our land and our customs for our grandchildren.

Rincon Band of Luiseño Indians, Valley Center, California

Germaine Omish-Guachena, Executive Director of the Strong-Hearted Native Women's Coalition, Inc.

California has a very tumultuous history. We have the highest Native population, and we lived peacefully before colonization, slaughter, and the forced assimilation of the California Native peoples. Violence against women and girls is a pervasive violation of human rights. Our women and girls face simultaneous layers of violence and oppression, based on being female and being indigenous.

The Strong-Hearted Native Women's Coalition is located in a PL 280 state, and we are tasked with providing education, support, and technical assistance to the tribal community, service providers, and tribal leadership to enhance responses to issues related to violence against women. Despite this, we continue to see atrocities committed, as well as jurisdictional confusion that complicates the efforts to respond.

At the second annual Tribal Leadership Symposium in California, participants voiced concerns about the needs of perpetrators. Perpetrators are often tribal citizens who will return to our

⁴ The Major Crimes Act, passed in 1855, is a federal law that gives the U.S. federal government jurisdiction to try and punish certain classes of serious crimes committed by an Indian offender against an Indian victim on Indian Country lands. The law was passed in response to the Ex Parte Crow Dog case (1883) that strongly upheld tribal sovereignty and jurisdiction over the punishment of crimes. The parties in the case were both Sioux men, and the tribe had already decided a verdict and punishment for the case when Crow Dog was tried under Dakota Territory law.

communities. We need to provide behavioral health support to stop abuse from continuing, and funds must be made available to provide healing services not just for victims, but for perpetrators as well. There needs to be accountability, re-education, and mandated treatment.

Tribal restraining orders, and whether they are given full faith and credit by non-tribal law enforcement, has been a consultation topic since 2006. For “full faith and credit” to be meaningful, it must be more than words on a paper, and must extend in practice through every level of law enforcement down to county officers and agencies. There are ongoing barriers to tribes accessing state and county databases, and we need lasting and workable solutions. Tribes should not have to pay to gain this access because it pits those who can afford it against those who can't. This is already occurring in California.

Family support and treatment programs need to have flexibility to use traditional and cultural ways in treatment. Food is part of our cultural ways, and we need to be able to use funds to provide food at trainings, conferences, and outreach events.

There are many issues related to PL 280 and the need for training and education. Jurisdictional questions arise in every step of the process, from arrest onward. There should be first responder training academies available in all PL 280 states. Currently, there is no mandate to train law enforcement, highway patrol officers, or other enforcement agencies and officers about PL 280 and jurisdictional issues related to Indian tribes. This has created anger, mistrust, and unlawful law enforcement. Examples of this include the court cases *Cabazon Band of Mission Indians v. Smith* and *California v. Cabazon Band of Mission Indians*.

When funding is routed through states, as it is under VOCA and FVPSA, tribes are often completely shut out of these opportunities. That's why there needs to be an increase to the VOCA funding cap and a 10% tribal set-aside. Regarding both VOCA and FVPSA funds, there needs to be firm action by DOJ, accompanied by implementation by the states, to ensure that tribes have access to these funds.

Manzanita Band of the Kumeyaay Nation, Boulevard, California

Leroy Elliott, Chairman, Southern Indian Health Council Board Member

(This testimony was presented in a letter read by Ms. Omish-Guachena.)

Tribal funds that are available through federal grant programming are only a 10% set-aside—a small amount of money compared to the general grant program. If the intention is to create an impact on these issues, it is imperative that more money be made available to tribes in amounts that are equivalent to the magnitude of the issues. In Office for Victims of Crime funding, there are no tribal set-asides at all within the \$8 billion total. It is difficult for tribes to meet the requirements of providing data for a variety of reasons, including historical trauma, small tribe sizes relative to the general populations seeking grants, and lack of reporting for crimes. For example, if tribal law enforcement responds to a call and the victim chooses not to press charges, documentation of the crime may be limited. Because of these variables, we don't have numbers that are available or accurate.

Restrictions on using grant dollars for food are not appropriate for grants to tribal communities. Sharing food together is a common cultural practice and is necessary for these programs to be rooted in and related to the community.

Federal dollars should be reallocated to create sustainable programs for children and youth that focus on modeling and supporting healthy behaviors. Examples of such programming are transgenerational gatherings and opportunities to work with both perpetrators and victims. Statistics show that victims and perpetrators often rejoin each other in relationships. We must recognize this fact in order to create the most effective programming.

There is a disparity of health care for women, especially for women who are victims of domestic violence and sexual assault. We must focus on health in a holistic way, including mental and spiritual health, and address women's previous experiences that have led them to believe that abusive or violent relationships are the only way. Custody battles are also critical in whether women can leave unhealthy relationships.

Finally, sex trafficking must be addressed. If programming is to be effective in stopping the increase of sex trafficking, it will be necessary to address the economic and social struggles that make people vulnerable to trafficking.

Collaborative efforts are required to strengthen the federal response to issues of violence against women—but these collaborative efforts can be very challenging. Nothing requires federal and state agencies to be active participants in this process, and getting them to sign onto grants or projects can take enormous effort. Sometimes they simply won't. It's difficult to mandate support and involvement, but an increase in engagement is necessary. We also need less restrictive means to meet the requirements for collaboration with external agencies. Continued dialogue will also be helpful, and it will be important to work with federal and state agencies to outline expectations for involvement. The U.S. government has trust and treaty responsibilities to tribal populations, and these obligations must be honored and fulfilled.

Rosebud Sioux Tribe, Rosebud, South Dakota

Calvin Waln, Tribal Council Representative

In our community, 98% of women are exposed to domestic violence and sexual assault. We have received 686 calls involving children.

We must have more flexible spending guidelines for these grants. The guidelines are so strict, and it's so easy to get sanction letters. But I am willing to write a justification letter every week to justify the expenses of saving the life of a woman or child. There are always cases that slip between the cracks, because their situation does not match the exact guidelines of a funding source. The amount of funding available to tribes is so small anyway—at least you could give us more flexibility to make better use of the dollars.

Training is essential to ensure that advocates, law enforcement, and communities are all on the same page in terms of their awareness and understanding. There are mixed messages in communities, and people do not yet understand that a victim is a victim, no matter what sex.

Dollars that are earmarked to address sex trafficking go to the states, and tribes receive such a small percentage—only pennies on the dollar. Our victimization rates are among the highest, and yet in the allocation process, we are on the very bottom. These are terrible inconsistencies. We should not be negotiating whether tribal set-aside amounts are 7 or 10%; they should be at 10% across the board.

Our victim advocates are one of the most important resources we have. We need direct funding at this level to arm them with resources. They are the ones who support victims when they are deciding whether or not to press charges, or whether or not to show up for a court case. If we have 10 cases in 2 weeks in Rosebud, the U.S. attorneys may take 2 or 3. What happens to the other seven or eight that remain in tribal courts?

In TLOA, the FBI received more agents, and South Dakota and North Dakota State Attorneys' offices received more agents, but we didn't receive anything, not even a judge. It stopped at the state level and never reached the tribes. We do want to implement new law and order codes to enable us to prosecute at the tribal level, but once our codes are in order, will there be funding? Will we be standing there with our hands in the air, waiting? You've promised us resources if we do the work to upgrade our codes, but in 2015, will the funding still be there? We've asked for technical assistance, and we've asked for 10 BIA officers to assist with tribal law enforcement because of our short staff, but that request has been denied.

I am also a supporter of treaties and trust responsibilities. We've often compromised on those when we come to the table. We can talk about programs and funding, but what happens when there are budget cuts? Every time funding for tribal programs has to take a budget cut, that's a treaty violation. When cuts are necessary, they should occur at higher administrative levels. Administrators have nice jobs and nice offices that are maintained despite budget cuts, while we have women and children who were living in a grass field. And when I work to find them resources, I have to make sure that what I offer them isn't a "disallowed cost."

For the record, I would like tribes to be at the top of the funding allocation. It is unacceptable, with the statistics we all know on the violence that our women face, that tribes are on the bottom of the funding pool.

Pauma Band of Mission Indians, Pauma Valley, California

Bennae Calac, ICWA Liaison

I'm honored today to speak for Juana Majel and for our band. California faces an interesting situation in terms of law enforcement. There are 109 reservations in the state, but the state hardly knows that we exist. In our county alone, confusion from law enforcement officers is an ongoing concern. When a woman is injured, they don't take the time to even find out what tribe she's from. We need law enforcement in our state to be educated about tribes and jurisdictions. If you come to our homelands, you will see the mass confusion that exists because of PL 280 because of the lack of education for law enforcement. We thank the larger California tribes who have set the path on these issues; it's been helpful for the smaller bands.

Juana wanted me to point out that bands who develop their own codes and protocols under TLOA face a great hardship in funding. We need greater support from the Office of Justice Programs and the Office for Victims of Crime to be able to take these steps.

There are a large number of urban Indians in California who are from out of state. In Pauma, there are only 340 tribal members. We are small, but we have the same issues as other tribes and we want and deserve the same types of support that larger tribes receive. Please don't lump us in with California urban Indian populations.

We're prepared, as tribal leaders, to come to the table for consultation, but we have to ask you: if you're going to invite us to take a seat, you must be prepared to accept what we want to eat, what we lay down at the table, when we break bread together.

Oglala Sioux Tribe, Pine Ridge, South Dakota

Bryan Brewer, Executive Committee President

The Oglala Sioux are located in South Dakota. We have 45,364 tribal citizens, and we have a population of 30,000 on the Pine Ridge Reservation, which includes enrolled members, non-member Indians, and non-Indians. The reservation covers three counties and is larger than the states of Delaware and Rhode Island combined. We cannot meet the needs of our people because the federal government does not honor our treaties. We should be here to do a needs-based budget to fully address the needs of Indian Country.

We have a program director and two advocates for our domestic violence program, and it is funded solely through FVPSA. Our Court-Appointed Special Advocates (CASA) program is the only DOJ-funded program in our tribe and we're in the last year of funding. In addition, our tribal Child Protective Services program works with victims of domestic violence and children who are witnesses, and our BIA department has a victim specialist who assists with all victims of crime, including domestic violence and sexual assault. The caseload of our attorney general's office is 1,400 cases. We have a juvenile prosecutor who does juvenile crimes, plus emergency custody removals. We do not have an adult social services department.

In 2013, there were over 132,000 calls for public safety, and of those, 1,315 were related to domestic violence. The highest months are during the summer. We received 1,020 of the domestic violence calls during July and August. There was prosecution and charges brought for 364 of the 1,315 calls, which equals a prosecution rate of about 30%. These statistics do not make me rest easy.

We have a very high rate of recidivism as well. Nearly 99% of domestic violence cases are related to alcohol and substance abuse. Some possible reasons for these high numbers include a lack of accountability and a lack of resources for the victim. Often, a perpetrator lives in the home and may be the sole source of financial support; this makes victims reluctant to follow through with prosecution. We don't have a shelter or any other safety mechanisms.

Under a past program, we had a shelter and a mandatory offender program. These programs are now gone, which means half of our legal code related to domestic violence is unenforceable because we lack the resources. There is no mental health support, no rehabilitation, nothing for offenders, and we don't have a probation office to measure the success of our requirements.

One resource that would help tremendously is a reentry program or halfway houses in our community. For domestic violence, the sole focus tends to be on prosecution. The feds come in and work with tribes to increase the prosecution rates. I'm a prosecutor, and I agree with that, but domestic violence is not a one-dimensional problem, and it is not answered simply by putting people in jail. Instead, we need to expand our approach to address the problem more holistically. For offenders, this means reentry programs and halfway houses. When released from federal prison or tribal jails, offenders often return immediately to substance abuse and violence in the home. Tribes need to lead in the creation of these resources, but the federal side needs to be able to meet us halfway. In the same way, the BOP pilot project is excellent, but without reentry supports, it is only half of a solution.

I fully agree with other speakers who have mentioned the trust responsibility, and the fulfillment of it goes beyond prosecution. It includes health, welfare, well-being, education—all things which are also part of addressing domestic violence. We also need youth prevention programs, funding in schools for domestic violence awareness, and funding for child abuse and neglect prevention programs.

IHS is currently our sole source of behavioral and mental health for everyone on the reservation, including domestic violence victims and offenders, and it is seriously insufficient. We also completely lack any contract health services, specialty providers, and preventative care on the reservation. The care available is only reactionary, after the fact—the same as how we address domestic violence after the fact, rather than with effective prevention. We've seen an increase in the abuse of prescription pain medications, which adds to sexual assault issues. Several psychologists in Pine Ridge have resigned recently because of the bureaucracy of IHS. We currently have no licensed behavioral health professionals, only social workers. When we decrease mental health providers, we directly increase domestic violence victims. In 2013, 2,500 children were witnesses to violence, and there were no mental health services available for follow up. Our current behavioral health conditions on the Pine Ridge Reservation are completely unacceptable, and I hope that the IHS representative here takes these concerns back to IHS.

Finally, we have concerns about CTAS funding. In 2013 and 2014, we were completely denied for all purpose areas. We were not provided any reason for this. We've asked, but we have been unable to get any straight answers. Was there an overarching reason? Did it have to do with our tribe's history? We need this information. We put a great deal of time and energy into these funding applications, and to receive a complete denial is baffling.

Crow Creek Sioux Tribe, Fort Thompson, South Dakota

Roxanne Sazue, Chairwoman

I'm from a small tribe here in South Dakota. We are a small reservation, listed in the U.S. Census as one of the top 10 poorest counties in the nation. Our reservation is considered remote, as the people there have no access to convenient or reliable transportation. The unrelenting poverty makes the lack of resources for services one of our largest concerns. We face housing shortages, lack of employment opportunities, understaffed law enforcement, and drug trafficking. Women who try to escape violence are stymied at every turn. Without housing, jobs, or access to education, they

are often forced to leave the community. The on-again, off-again service provision from agencies continues to be a problem. When there is any delay of award or denial of funding, it stops services programs completely.

Our police is staffed through BIA, but we need a stable department with more officers. We should have at least 10 officers, but we currently have 5. We also need competent special agents who can investigate sexual assault. Too often, women who are victims of sexual assault do not report because they think, based on the experience of other women, that nothing will be done. Many domestic violence and sexual assault cases are declined for prosecution. We need resources to fully fund our police department and courts. We train officers and then lose them to better salaries elsewhere.

There is only one BIA special agent in Crow Creek and he investigates all crimes, not just crimes against children. Given the rural nature of our reservation and the time needed for travel and investigation, this cannot be completed in a timely manner. Cases are held open for months, waiting for the investigator to address them.

One major issue on the reservation is the epidemic use of synthetic drugs by adults and youth. Our advocates feel that women often use drugs to escape the pain of domestic violence and sexual assault. We have written many times for a drug and alcohol counsellor, but funding for that line item has been consistently denied and our community and our people, especially our children, suffer for it.

We have no juvenile services on the reservation. BIA social services investigates and places “children in need of supervision,” but there are no facilities for placement on the reservation. Many of these children are from homes impacted by domestic violence. This means that children who are traumatized by violence in the home are placed off reservation, away from their families and friends, which continues the trauma for them.

We also need the cooperation of IHS. Our local IHS is inadequate; they are only available 8 hours a day, and are gone after 4:30 p.m. Rape doesn’t follow a timetable set by IHS hours. Advocates and police are forced to transport victims to a hospital that is 30 miles away, and the services available there are not culturally sensitive. We have had the medical bills of two rape victims and one domestic violence victim denied by IHS because “they were not Priority I services.” You must ensure that IHS agencies follow their own grant requirements in working with the tribe and local organizations. Staff managing grants at IHS jeopardize victims and put them at risk if they have no training or understanding of domestic violence.

STOP funding from the state of South Dakota is a problem for shelters. They ask that shelters volunteer for match payments. This isn’t a requirement of funding, but shelters still fear losing the funding, so they sign the form. Why is the state STOP administrator allowed to ask shelters to do a match? We would also like to see the requirement that state STOP administrators are mandated to meet face-to-face with tribes. Sending a letter asking for input for the state grant is totally insufficient. Face-to-face meetings need to happen here.

We are very proud of the work that our shelter program, Wiconi Wawokiya, Inc., has done in our community for the past 29 years. Wiconi has a shelter in Fort Thompson and Sioux Falls, with programs for emergency shelter, transitional housing, domestic violence offender education, children's advocacy services, and a number of training programs for advocates, law enforcement, and the public. Yet every year, the staff must scramble for money.

The tribe authorizes Wiconi to write and administer the FVPSA grant. This is a good arrangement because it eliminates paperwork and bookkeeping for the tribe. The grant reports and application are manageable and the funding allows much more flexibility than OVW grants. But the funding is totally inadequate. The base amounts for each tribe must be raised. Everyone pays the same costs for beds and supplies, so services can't survive when grants have a very small base amount with the rest dependent on the census instead of tribal enrollment. Competitive funding overall is a problem, because, if we don't get a continuation after 3 years, we will be forced to cut services, lay off advocates, and close the program.

We support the tribal set-aside under VOCA, which is similar to what the states get—a formula grant each year for programs that comply with grant requirements. This would focus on the demonstrated need that has been ignored for far too long. We also support the development of a training protocol and alert system to increase the response to missing and murdered Native women, as well as a having team of investigators to address cold cases in Indian Country.

We anticipate that the Keystone XL pipeline will impact our reservation. It will cut across the corner of it. With the coming of construction workers and man camps, we need to have programs up and running, because we know that we will see an increase in trafficking and drug abuse. Wiconi collaborated with a tribal coalition to fund a domestic violence program for our neighboring reservation, Lower Brule, through the CTAS grant. It was denied and we are left wondering why.

We appreciate that OVW funding allows the incorporation of cultural activities, such as Native spirituality and teaching people to respect all life—each other, plants, animals, and traditional ways of healing. It is one way of letting everyone know that violence against women is not a tradition. But one of our traditions is feeding the people, and our grants won't let us purchase even a cup of coffee. This is not in keeping with honoring our cultural ways.

I hoped that we would see elected federal officials here today. I'm an elected tribal leader, and that is who I should be consulting with. It is heart breaking that we have to sit here with our hands out. Responding to these needs is a treaty responsibility of the U.S. federal government. You wanted peace, and you promised us all these things—health, education, and welfare. These are not being fulfilled.

Eastern Shoshone Tribe, Fort Washakie, Wyoming

Jodie McAdams, Council Member

Before I was a tribal council member, I was a grandmother, and I can see that domestic violence and sexual assault are becoming more and more evident on the reservation. We share the Wind River Reservation in Wyoming with the Northern Arapaho Tribe, and we also share a DOJ Safestar program. There are four members from each tribe who were trained and became spokespersons

for the program to support victims of rape and sexual assault on the reservation. They received training to perform forensic exams, and to go with victims to the hospital. This sends a message to perpetrators that we are watching them. We thank DOJ and OVW, because they were the ones who funded that program. On the other hand, our tribal court systems are in need of additional funding.

DOJ should provide support for tribes in educating tribal leadership about domestic violence and sexual assault. Many members of tribal leadership are men, and many men are very uncomfortable hearing about domestic violence and sexual assault, even when it is occurring in our own backyards. We would appreciate if DOJ could help us address this issue of education and awareness. We would also appreciate technical assistance on how to get all the main players to support our community efforts and work together. Our advocates can provide direct support to victims, but we have difficulty getting other players together to talk about issues like jurisdiction and evidence.

Pascua Yaqui Tribe, Sells, Arizona

Raymond Buelna, Council Member

The Pascua Yaqui Tribe is one of the three tribes participating in the special jurisdiction pilot project under VAWA 2013. This special jurisdiction began on February 20, 2014, and since that time, we have had 20 reported cases involving non-Indian defendants. We thank Congress, the Obama Administration, DOJ, DOI, NCAI, TLPI, and NCJFCJ for their leadership and assistance in the past year.

The first responsibility of any government is the safety of the people. A crime against one person is an offense against the people, and against the sovereign authority of our government. Our tribal sovereignty exists to protect the health, integrity, and security of our communities. Nothing is more vital to the health and survival of our people.

The expanded jurisdiction means that we no longer have to be victimized. Our tribe is implementing VAWA and special jurisdiction for maximum protection against further violence. The strength of our tribe is our families, and immediate response by law enforcement protects victims, holds perpetrators accountable, and communicates the message that violence against intimate partners is criminal and will not be excused or tolerated.

The Yaqui people historically have always had some form of law enforcement and dispute resolution. In the modern era, our tribal criminal codes were adopted in 1982 and our current constitution approved in 1988. In addition to our constitution, our elders created a tribal court system as the arbitrator of Yaqui justice and our forum for dispute resolution. Our official justice system has been operating for over 25 years. We have law enforcement, a tribal prosecutor's office, and civil and criminal branches. Due process is ensured through the Pascua Yaqui public defender's office. Our legal processes provide all defendants with the same rights as they would receive in a state court. A defendant's right to counsel and due process is deeply rooted in our traditional practices, and we support the right of a person to speak on a defendant's behalf.

On July 2, 2014, for the first time since the Oliphant case in 1978, our tribe obtained a conviction of a non-Indian perpetrator for a crime of domestic violence assault committed on the Pascua Yaqui Reservation. Since the beginning of special jurisdiction on February 20, we have arrested 13 male

and 1 female non-Indian perpetrators who were involved in domestic violence incidents. Four cases were serious enough to warrant referrals for federal prosecution. We discovered that, on average, these VAWA offenders had come into contact with tribal police at least six times before special domestic violence criminal jurisdiction was implemented. Three of these offenders have already reoffended. At least nine were living on the reservation in tribal housing. Seven offenders were of Hispanic descent, two were white, three were African American, one was Asian. One was part of a same-sex couple. Most appeared to be unemployed, and only two did not have a prior criminal record in the state of Arizona. Of 10 offenders, 7 had been arrested in the state of Arizona before.

Changes and upgrades to a tribe's legal system come with a cost, and those costs should be supplemented by the federal government. In exercising special jurisdiction, we have provided law enforcement and detention officers to arrest and detain individuals at our cost. Also, in reference to the NCIC training yesterday, we concede that this access is very important to tribes. We must be at the table, just as states are.

VAWA 2013 restores some authority to tribes, but even with the recent legislative and crime fighting efforts of tribes, there is still a superstorm of injustice that has darkened Indian Country for decades. Today, in 2014, there is a public safety and health crisis on most reservations, and especially in Alaska. We are still facing a crisis of confidence in tribal and federal justice systems. Like after a major storm, it takes time to survey the damage and rebuild trust. There are shattered communities across the United States, and they still continue to suffer. There have not been changes in the overarching legal and jurisdictional frameworks of Indian tribes. VAWA and its opportunities remain a bittersweet first step, when we know that not all tribes have the resources necessary to fully implement VAWA.

Tribal control is critical. The starting place to reverse historical jurisdictional problems and injustices in Indian Country is with strong tribal justice systems. Criminal injustices occur at a local level, so local tribal governments and services are the best place to begin protecting women in Indian Country from jurisdictional gaps. The Pascua Yaqui experience with special jurisdiction bears this out.

Full restoration of criminal jurisdictional authority to all tribes should be the next step when we consider VAWA reauthorization. While it is true that the federal government has a trust responsibility to assist tribal governments in safeguarding women and children, tribal governments have the same trust obligation to the people they represent and to all people who enter their boundaries. The new VAWA law has made important changes that we now use daily to protect our community while guarding the rights of the accused, but VAWA will require a significant amount of interagency coordination for full implementation, and it will be important to establish a framework for full follow through.

Fred Urbina, Attorney General

As the Pascua Yaqui Attorney General, I can speak to the cases themselves and the problems we are experiencing. JustWare is our case management software system, and it is very good. It is used by several other tribes in Arizona. We were able to obtain this system through a one-time funding request through BIA, and it helps us maintain statistics from our court cases. We have had domestic violence cases between same-sex couples. As mentioned by the Rosebud Sioux Tribe, it is critical

that we begin to understand lesbian, gay, and transgender issues, and how they relate to protecting our people from violence.

The question before VAWA was about statistics, whether the statistics were accurate. Congress asked this, and now we can say with evidence that these cases are occurring in Indian Country. If you take the 20 special jurisdiction cases in Pascua Yaqui over the past 6 months, and multiply them by 500 tribes, you have 10,000 cases in Indian Country that could have been investigated or prosecuted if all tribes were able to exercise this jurisdiction.

The average age of victims in these cases is 28 to 32 years old. Most are female, and they are largely single mothers with children. In the 20 incidents we prosecuted, 17 children were involved. All were under the age of 11, and they were either exposed to violence, were victims, or were the ones who reported the crimes while they were in progress. We capture information like this as we go, in the hope that we will have statistics that can be of use to other tribes.

The 2014 *Castleman* case⁵ gave a definition of domestic violence that turns on the use of physical force by a current or former spouse or an intimate partner. The problematic part of this holding is that it may be used to limit tribal jurisdiction under special domestic violence criminal jurisdiction. Like many other jurisdictions, we often charge crimes that, while not including physical force, are nonetheless violent and dangerous domestic violence crimes. These can include crimes such as trespassing, threatening and intimidation, tampering with communications, burglary, breaking and entering, stalking, disorderly conduct, unlawful imprisonment, harassment, endangerment, custodial interference, and malicious mischief (criminal property damage). The dynamics of intimate partner violence mean that, over the life of a relationship, aggressive and hostile behavior increases in frequency and severity. This means that tribal attempts to address and prevent violent encounters, which are already restricted under special jurisdiction, may be limited even further by the holding in *Castleman*, because crimes occurring early in the cycle of domestic violence that do not involve physical force cannot be charged.

Peter Yucupicio, Chairman

Our reservation is 2,200 acres—it's a small amount of land and we do not have the space that other tribes do. Houses are very close and clustered together, and families live with five children in one bedroom. Conditions like this are the responsibility of the federal government.

We have come to let you know that tribes need help. You tell us that there is no funding. Have you seen the terror on the face of a woman who has been a victim of domestic violence? No amount of money will redress that fear. And addressing these problems fully will take more than just money and laws; we need IHS support, and we need behavioral health resources.

Our tribe has invested in the woman—in the mother and the grandmother. We could not wait for federal assistance, even if it meant that we had to foot the bill. This is the time of year when the spirits come to visit us, and ultimately, we have to answer to the people who have passed on into the flower world. We must be able to tell them that we have protected our women.

⁵ In *United States v. Castleman*, decided in March 2014, the Supreme Court ruled that a "misdemeanor crime of domestic violence" involved the use or attempted use of physical force, and that "physical force," in the context of domestic violence, must be understood to include "even the slightest offensive touching."

Written Testimony from Pascua Yaqui Tribe

Domestic violence is and has been the most pressing criminal justice challenge facing the Pascua Yaqui Tribe. Domestic violence charges account for a significant majority of all criminal filings. These include cases with aggravated assault, assault, disorderly conduct, and trespassing in which domestic violence is a factor.

The Pascua Yaqui Tribe was originally subject to PL 280, but in 1985 the state of Arizona retroceded criminal and civil jurisdiction to the tribe. BIA originally created our tribal court, but in 1988, we took over control of the judicial system via a 638 contract. Until 1991, law enforcement was provided exclusively by BIA officers, but in 1991, the tribe hired three tribal police officers who worked alongside the BIA officers. In 1998, the tribe signed a 638 agreement to direct its own law enforcement. In 1997, the tribe founded the Pascua Yaqui Victim Services program. Currently the tribe employs 26 uniformed patrol officers, along with a number of victim advocates.

In 1993, the tribe entered an agreement with the Arizona Department of Public Safety (DPS) for NCIC and Arizona Crime Information Center (ACIC) criminal information access. In 2006, the tribe approved an intergovernmental agreement with Arizona DPS for the purpose of processing evidence. Since then, the tribe has joined other intergovernmental agreements to increase our access to NCIC, ACIC, and other criminal databases. In 2011, the tribe, in partnership with DOJ and the U.S. Attorney's Office, appointed tribal prosecutors as Federal Special Assistant United States Attorneys. The tribe has also been certified by DOJ as substantially implementing SORNA.

Additional challenges in implementing changes to the tribe's judicial system include the following:

- The implementation of TLOA and VAWA have incurred substantial costs that have been fully covered by the tribe with virtually no federal assistance. All VAWA defendants who were prosecuted had public defenders or contracted defense attorneys appointed at the expense of the tribe.
- Although the tribe has hired additional attorneys to cover these needs, there is still a deficit in resources when considering the overall complexity of a full-blown criminal process, including additional litigation, appeals, evidentiary hearings, scientific evidentiary analysis, additional investigation, expert testimony, additional data collection, and other administrative and indirect costs.
- In considering the detention and medical treatment of non-Indian defendants, BIA has covered the costs for non-Indian defendants and the tribe has taken responsibility for costs associated with VAWA defendants in tribal custody.

The tribe notes the following lessons learned during the time they have implemented special domestic violence criminal jurisdiction:

- Most Pascua Yaqui VAWA special jurisdiction cases involve defendants with significant ties to the community.
- Domestic violence crimes committed by non-Indians are a significant problem on our reservation.

- Pascua Yaqui VAWA offenders are a diverse group, in race and country of origin. However, most are unemployed and have previous criminal records.
- Pascua Yaqui children are being exposed to violence and are at a high risk for being physically abused, neglected, and witnessing intimate partner violence in our community. This is problematic when tribes do not have the authority to charge for crimes that endanger, threaten, or harm children.
- Implementation is complex, but we are learning. It took decades to create the existing jurisdictional mess in Indian Country; it will take time, diligence, and patience to solve these problems.

Based on its experiences, the Pascua Yaqui Tribe has gathered advice, recommendations, and guiding questions for consideration by other tribes who are contemplating the judicial system changes authorized by VAWA. It has also documented previous and relevant Pascua Yaqui cases that pertain to tribal court authority in sentencing.

Finally, the Pascua Yaqui makes the following recommendations as special jurisdiction is expanded:

- Clarify the definition of “violence” or expand jurisdictional authority. In the context of VAWA jurisdiction, “domestic violence” should include specific crimes that do not require an element of offensive touching, because domestic violence frequently includes non-physically threatening behaviors that still function to coerce, intimidate, threaten, and control family members.
- Special domestic violence criminal jurisdiction should be expanded to include children, property, pets, and other vulnerable family members. Domestic violence perpetrators often destroy property, harm children and pets, and harm other family members. VAWA 2013 is helpful, but it is not sufficient to allow a tribe to protect the whole family.

Fort Peck Assiniboine and Sioux Tribes, Poplar, Montana

Pat Iron Cloud, Vice Chairwoman

I have three children who are veterans. My daughter just returned from Afghanistan. In the whole time she served there, she was not harmed, but the day after she got home, she was assaulted. You would think she would be harmed during her military tour, not by someone who says, “I love you,” and “Thank you for serving.”

I come before you today with short hair, because my grandson was murdered. The suspect is my other grandson. I can’t bring him back, but I can speak on behalf of those who are not here.

Every time a man comes to the circle, you make one of us whole. Every time you shake our hand, you make us whole and you heal us. I love listening to these men and women speak, because it heals me inside. That’s why I’m a vice chairwoman, because I carry the heart of my people.

In our tribal land, we have 5 million acres. The FBI, the U.S. marshals, the county—they are on one side or the other, but we are hurting in the middle. My grandfather had six wives, and if he was not worthy, he wouldn’t have even had one. And who belongs to the wives? The children. The first people who tore our families apart were the senators who made five of these wives go away.

We're not here to beg. Our knees are bruised and bleeding because we've been on our knees begging for so long. We need to have money for the tribes that don't even have a probation office, not even a domestic violence office. There are over 500 tribes, and only 200 are getting funded—I am the voice for them, as well.

Roxanne Gourneau, Fort Peck Executive Board Member

In my lifetime, I'll be able to speak about living in a time where there was Elouise Cobell, Tillie Black Bear, and Wilma Mankiller. I'm proud that these women showed us how to love unselfishly for all the people.

We must address the need for affordable housing. Our women and children cannot be revictimized by hiding them in the dark, away from family, friends, and support systems. I'm educated and I could have left my reservation, but I haven't. Why, then, should we expect our people who are uneducated and the most vulnerable to leave it when we won't? To address these issues, we need the housing authority at the table with us, to listen to what tribes need. It takes 3 years for a meth addict to be able to resume a normal life. Can you imagine the length of time needed for women and children who have been victims of domestic violence? It takes more than 2 years. But in that time, we can help them by educating them about coping skills and other resources.

A second need is to open up funding in domestic violence grants so that we can hire licensed addiction counsellors. Women and children in domestic violence programs need these services available. Children can be addicts at 9 years old. Our existing drug treatment facilities are overwhelmed, and they can't spare any counsellors because they are busy dealing with the general population. These resources need to be made available on the reservation. Off reservation treatment doesn't work. We also need the ability to challenge HIPAA (the Health Insurance Portability and Accountability Act), because, if we are not able to get information for case management, we have nothing to work with. I've worked in every branch of government—judicial, executive, and legislative—and I have seen how those barriers need to be broken down. As funding agencies, you need to know that unless you help us break those barriers, you are throwing your money away.

SORNA and our tribal registry are working great on our reservation. For convicted drug traffickers, we are going to display their information the way that SORNA does for sex offenders, because we know that public humiliation works in Indian Country. The family also needs to be involved. So many of our problems come from the laziness of the extended family in instructing their young. We need to open up court hearings so that all of the extended family can come in and be involved.

The shortage of mental health resources must be addressed. I have testified to BIA and IHS on this issue. Don't look to us as a tribe to figure this problem out. We have hundreds, if not thousands, of people in need of treatment. The shortage is so severe that, if you removed all the current mental health programs from the reservation, we wouldn't even notice. We are dealing with issues that are years and decades old. You can't expect a half-hour appointment once every 3 weeks to fix three generations of problems.

We must be able to fully embrace our spirituality and our culture. It's good to receive funds, but you must allow us to do something different. Because we can't is why our suicides are so high. My son committed suicide on November 23, 2010. I died that day. You write in your research papers that people kill themselves because of poverty, but is someone really going to kill themselves because of poverty? Our children in institutional education are profiled, bullied, and harassed by the administration, and reasons like these are the real reasons for suicides.

Written Testimony of the Fort Peck Assiniboine and Sioux Tribes

In an application for funding under the Bakken Region Initiative, the Fort Peck Assiniboine and Sioux Tribes' Family Violence Resource Center highlights the following points:

- The critical gap in providing services to victims of domestic violence is the unavailability of housing and lack of affordable housing. Bakken oil workers in the area have increased this shortage by buying up motels and apartment buildings. Rent has increased far beyond affordability.
- Victimized women whom we have provided services and shelter to have often returned to batterers because no other housing is available. Most Indian families are crunched into Fort Peck Housing Authority homes because no other housing is available or affordable. The Housing Authority has a wait list of 2 to 3 years.
- Because of the increase in population due to Bakken oil workers, we have an increase in homelessness due to the high rise in cost of living. People have higher grocery bills that have come along with the inflation of local prices. Our community members cannot compete with the highly paid oil workers who are moving into the area.
- As populations in our region increase because of Bakken oil field development, we have seen an increase in crime, violence, drugs, gang activity, and meth use and sales. Young men are targets for recruitment into gangs, and young women date newcomers and are lured into lives of drug abuse and victimization. Communities need education and awareness about these dangers so they know what to watch for, such as unidentified cars and people they do not recognize from their neighborhoods or community. Children and young adults are often approached by these strangers.

Blackfeet Nation, Browning, Montana

Harry Barnes, Chairman

When I was elected as a tribal leader, I realized I needed to learn about many new issues that I hadn't considered before. Domestic violence was one of those issues. I became aware of the carnage that was around me, and realized I could not stand idly by. If my brother raises his hand against a woman, am I not just as guilty if I do not raise a hand to stop him?

I carry a picture of Susie Hall, who died because of domestic violence. She was a member of a large family and she worked on the reservation with many children who loved her. There are too many other stories similar to hers. Domestic violence is more pronounced and prevalent in Indian Country. The Montana Crime Board reports very high numbers that are growing every year.

The University of Montana did research on childhood trauma with seventh graders on the Blackfeet Reservation and found that they showed symptoms of traumatic stress and grief. Over 60% of them met the criteria for exposure to violence. In the measures of Adverse Childhood Experiences (ACEs), our middle school children scored an average of 14, where the national average is 4. Violence against Native women does not happen in a vacuum. Children begin to accept it as a natural way to solve problems.

In implementation that is required under VAWA and TLOA, tribal courts are required to mirror values and processes of federal and state courts. This implies that the tribal value system is inferior. For these legal and judicial changes to be truly effective, there must be a place to include tribal values. Domestic violence is a community problem that is reinforced when we adopt ways that counter our traditional ways.

Our tribe has had fiscal problems, and our domestic violence program closed on October 1. We need training for victim advocates and support for providing comfort and counseling to victims and their families. We need to be able to provide training in these victim support roles that leads to certification. I also echo the concerns that have been voiced by others about the severe shortage of mental health resources. We face the same issues of losing qualified providers. Someone will train as a doctor in our Veterans Administration (VA) health system and then be stolen away to another health system off the reservation.

Mashpee Wampanoag Tribe, Mashpee, Massachusetts

Marie Stone, Tribal Council Secretary

I am representing the 2,600 people in my tribe. The easiest way for me to speak would be to say that I echo everything that the others around the table have already said.

I have asked the Creator why I have to continue to work on this topic. It's something I've been trying to escape my entire life. From personal experience, I can say that it only takes one significant emotional event to bring forward all the pain from the past. The interesting part is, I am 56 years old, and I have only acknowledged this fact this year. I have posttraumatic stress disorder from the abuse that I suffered. But I got my answer, that I am here doing the work of the Creator because the Creator is not going to let evil prevail.

I have deep concerns when tribal leadership does not step forward to correct behavior that is outside of our cultural ways. Our tribe has only been recognized since 2007. Many parts of tribal government infrastructure and services are not in place for us yet. We are located on Cape Cod, which is largely a high-end tourist community. As a tribe, we haven't known where to start with VAWA reauthorization.

It's very difficult to change older people once their values are in place. Instead, you have to start with children and educate them. It can start in the home, but also in school systems.

Tribal housing is nonexistent for us. There are no shelters in our town. And if you have to go out of town, beds are limited, and mothers and children often can't stay together because a shelter can't accommodate a whole family. Our families are large, with 7 to 15 members.

I also echo that funding is greatly needed for mental health services. I, myself, have been sick for long periods of time with stress-related symptoms related to PTSD. I think a majority of our community is suffering from PTSD. People typically associate it with veterans, and so they don't understand how it can affect you. They don't understand that it's a life sentence.

Hualapai Tribe, Peach Springs, Arizona

Carrie Imus, Tribal Council Member

There are several issues that impact us as a small tribe and affect the women in our community. There is not effective reporting on domestic violence issues by the tribal police. We need comprehensive training for tribal police and prosecutors about how to be sensitive when interviewing a victim of domestic violence. When there is not appropriate sensitivity, we victimize them again. We also need to be able to provide services for adult and juvenile inmates who are in detention. We currently have a 2-week program, and we need an effective coordinating team that works with various partners in our community. We are working toward breaking down the walls.

Through OVW, we have supported a domestic violence shelter in our tribe. We saved our Community Development Block Grant monies for a couple of years to build a shelter with four bedrooms, and then we looked to CTAS funding to continue developing the program. However, our application wasn't approved. The government always uses "sustainability" as a justification, but how can small tribes continue when the need is not met? Funding is always a need, especially when we don't have gaming resources like some other tribes do.

We have updated our tribal codes to address domestic violence. It was a process that took 2 years, and OVW assisted us in educating professional staff and the community.

It is good to see a representative from IHS here. Our tribe has received 5 years of Domestic Violence Prevention Initiative (DVPI) funding that has enabled us to provide additional community services. We are currently providing batterer intervention classes once a week in adult detention, as well as for the community. There is a need to redirect the offender, to provide tools and information that he may not be aware of, and to ask, "Why does he hurt his wife or significant other?" Through DVPI, we also provide K-8 awareness of bullying for youth, education and awareness of teen dating violence for youth in the community, and some juvenile detention services. Our domestic violence program, through OVW and DVPI, also provides traditional sweats for victims and for the community for healing and spirituality.

For the Hualapai Tribe, there continues to be the need for funding. The issue that impacts us is that funding for OVW was not released until a year later. There must be a better system in place when funds are not available at the onset of the grant cycle. DVPI funding through IHS has been most beneficial in providing services for our community. It is recommended to IHS to continue DVPI funding.

Joann Whatoname, Domestic Violence Manager, Hualapai Human Services

I have been providing domestic violence education since February, working with Debbie Clark, our domestic violence coordinator. We did have a death 3 weeks ago. A 13-year-old girl hung herself because of bullying and it shook the whole community. It shouldn't take something like that to

make the community come together. Nowadays, you close your door and you don't want to look outside because there's violence. You act like you don't know your neighbor. That is not how our community has been traditionally.

Hopi Tribe, Second Mesa, Arizona

Written Testimony from the Hopi Tribe by Hopi Tribe Chairman Herman Honanie

Chairman Honanie read his written statement into the record.

Attending with me today are Romalita Laban, executive director for the Hopi-Tewa Women's Coalition to End Abuse (HTWCEA), and Florence Choyou, a member of HTWCEA's board of directors. These women are responsible for carrying out VAWA in our tribe.


The Hopi Tribe financially supports a domestic violence program that has provided direct services to victims of violence for at least 15 years. Building this program and its infrastructure has been a long, slow process, but we are working to keep women and families safe, to hold perpetrators accountable, and to focus on prevention and social change.

The Hopi Tribe has a fully functional criminal justice system and has implemented the expanded sentencing authority under TLOA. The Hopi police are operated by BIA through a direct service system. BIA also operates a jail on the reservation and transports sentenced inmates to BIA corrections facilities or contracted facilities. We have recently been informed that BIA plans to close up to 75% of its jail located on the reservation. We anticipate this closure will cause problems for our courts and for defendants' rights if defendants must be housed hundreds of miles away.

Our tribe is appreciative of what DOJ has done to implement the special domestic violence criminal jurisdiction. We participate in the Intertribal Technical Assistance Working Group that has focused on this implementation. We have achieved the requirements for enhanced sentencing under TLOA and we are currently exercising this sentencing authority. We are now turning our attention to meeting requirements of special domestic violence criminal jurisdiction, which will require continued funding and technical assistance through the working group. We are particularly concerned about the cost of providing indigent counsel and the lack of an adequate detention facility.

It is Hopi belief that women are *costly*, meaning that they hold an honored place in all tribal societies. For this reason, we strongly urge DOJ to work with Congress to address Section 910 of VAWA so that VAWA's amendments and protections will be applied to Alaska Native villages.

Frances Choyou's daughter, Monica Choyou, was murdered in May 2009 by a non-Hopi Native man with whom she was in a relationship. This man had been banished from two other reservations for violence before he came to Hopi. If this information had been accessible to us through a national criminal database, Ms. Choyou's daughter's life could have been protected. There continue to be issues with tribal entry into and access from federal criminal databases such as NCIC, which are operated by the states. FBI and other relevant agencies must work closely with tribes to ensure full tribal access to NCIC and related criminal databases.



In regard to DOJ's administration of funds for tribal governments related to domestic violence, it is stated in Title IX of VAWA 2005 that tribal governments have a government-to-government relationship with the U.S. federal government. Yet today, we continue to be dependent upon OVW and other grant programs for funding. It is critical that tribal governments have their own appropriations line. Tribal nations are sovereign and should be treated as such.

Because adequate funding is always difficult to achieve, it is imperative that we look at other funding sources, such as VOCA dollars. Hopi supports an "above the cap" tribal set-aside in VOCA dollars. Similarly, with FVPSA dollars, we also recommend an increased set-aside for tribes. The current tribal set-aside is 10%, the same amount as for state coalitions. We recognize that the work done by tribal coalitions, such as our own Hopi-Tewa Women's Coalition to End Abuse, is the same as that being carried out by state coalitions. But tribal coalitions are not included in FVPSA and are not eligible for funding. To achieve parity, we support the inclusion of tribal coalitions under FVPSA along with state coalitions.

The Hopi Tribe has these other specific recommendations in response to framing papers from DOJ:

- DOJ should *not* carry over unfunded, high-scoring applications from FY 2015 into FY 2016. New ideas, needs, and projects arise from year to year, and a tribe may need a project urgently in 2016 that they did not need in 2015.
- DOJ should *not* provide priority consideration to awardees who have completed strategic plans approved by DOJ. A tribe's application deserves consideration whether or not they have an "approved" strategic plan. Tribes should be evaluated on the merits of their application and current needs. Additional points may be given for a proposal that aligns with a pre-existing plan, but funding should not be automatic.
- Resources should be added to build research knowledge about what is working in the field of corrections and reentry. BIA suggests that our tribe should move in the direction of "alternatives to incarceration," but we need to know what works in this area and what programs are possible alternatives. We are not necessarily opposed to alternatives, but we cannot move in this direction without more information.
- We believe that the Bureau of Justice Assistance should work to enhance management where funding is split between agencies. We are currently experiencing problems in this area because of the announced closure of our BIA-operated jail, and we look to DOI and BIA to identify an acceptable solution that serves us and other tribes experiencing huge problems in terms of detention.
- While alternatives to incarceration may be appropriate in some circumstances, incarceration is still necessary in many instances to protect victims and the community. For this reason, we request that CTAS Purpose Area #4 be fully funded and that new construction projects be allowed for FY 2015.
- The Hopi Tribe fully supports addressing tribal reentry issues and funding programs to support reentry, such as alcohol and substance abuse programs. Our villages are small, and perpetrators who return from serving a jail term can fall into the same old patterns. We request funding, as well as access to research, evidence, and technical assistance, to develop successful reentry programs for perpetrators.

- We request expanded funding for victims of domestic violence, and for continued efforts to implement TLOA and VAWA. The requirements for protecting defendants' rights make the implementation of these laws very costly.

Hopi Tribe has the following recommendations to address other issues:

- We request that Congress, DOJ, or DOI make funding available to properly implement VAWA, SORNA, and TLOA. VAWA 2013 authorizes appropriations of up to \$5 million each year for fiscal years 2014 through 2018 for tribes exercising special domestic violence criminal jurisdiction. Tribes that implement this should be awarded a proportional share of this appropriation.
- We recommend that funding and technical assistance be made widely available for all tribes implementing TLOA and VAWA's expanded jurisdiction, and consistent with the wording in VAWA 2013 that allows the Attorney General to award grants to Indian tribes for all these purposes.

Herman Honanie, Chairman, additional comments

I had a recent conversation with an elder about a health care center and he made an interesting point that, a long time ago, Hopi people had the means of serving and helping individuals who returned from war. Due to a loss of our traditions and clarifying songs, we now often find ourselves following Western medicine when we should be continuing to follow the traditions of our people and strengthening our young people and our language.

I heard another speaker talk about Native languages. Our language can be the cure of many illnesses, but if we don't carry on our traditions, especially language, we will lose them. We must keep teaching our language and our values to our grandchildren. Understand that all of our traditional philosophies value and commend women. Teaching this to the youngest generation is a huge responsibility.

Shoshone-Bannock Tribes, Fort Hall, Idaho

Mitzi Sabori, Tribal Council Member/Secretary

Our tribe is in Idaho and has 6,000 members. I am in my fourth month of serving as the tribal secretary, and I am at this consultation for the first time. Lack of funding and lack of tribal leadership means that our tribe is in need of support for families and victims of domestic violence, as well as training for our community on domestic violence awareness.

In our tribal courts, we file two to three domestic violence cases each week. Most are assault or battery, but around 10% are for the violation of no contact orders or protection orders. Approximately 60% of the assault or battery cases are resolved by plea, 40% get a reduced sentence, and the remainder are dropped due to victim noncooperation. Arresting officers may not work with the tribe or may be untrained on how to properly complete the paperwork for an incident report. For protection order violation cases, 25% plead out, 50% are tried as criminal contempt, and the remainder are dropped due to noncooperation of the victim and record-keeping problems that are similar to those of assault or battery cases.

We are thankful for OVW funding this year. We were awarded a grant that will allow us to hire a shelter worker and a program manager in addition to our current four staff members in the program. We have two advocates, one legal victim advocate, and a 24-hour crisis team. We have had a full house for the last 4 months. We contract with a batterer's intervention program. It took a long time to start these programs due to the technicalities of our contract, but they are currently up and running. One more person is referred to the program each week. We also get a small grant through FVPSA where our award was decreased from last year to this year.

Audrey Jim, Domestic Violence Coordinator

When I joined tribal government, there were 81 departments that I had to learn. There are quite a few non-Natives that work in our safety force and they have to have additional training to learn our traditional ways. Once they are fully trained, they often move on to other departments. We keep our employees only about 2 to 3 years once they are trained. When they work on the reservation, the tribe pays for their training, which isn't the case in off-reservation jobs. We need some kind of a change there—perhaps a contract agreement that requires them to stay and work for a certain amount of time once they are trained.

We also need additional support for drug and alcohol programs and for transportation needs. We ask that that funding be made available, and that representatives here hear our words and take them back to Washington, DC.

Tulalip Tribes, Tulalip, Washington

Michelle Demmert, Reservation Attorney

The Tulalip Tribe is located 30 miles north of Seattle. Our tribal lands are 22,000 acres with 15,000 residents and about 75,000 visitors on any given day. We have 4,500 tribal members. We have domestic violence programs, including a women's shelter, and several advocate positions that are funded in part by grants and in part by tribal hard dollars. Sharon Jones Hayden, our tribal prosecutor, is now a tribal SAUSA-appointed attorney as a result of the TLOA.

Tulalip is one of the three tribes currently implementing special domestic violence criminal jurisdiction under the pilot project. Although we have been able to charge non-Indian defendants with domestic violence, there are related charges that we have not been able to use. Frequently a victim's children are present at the time of the crime, and have been dramatically victimized. But these clients pose difficulties for us because we must try and refer their cases to U.S. attorneys or to the state, or face the possibility that they will go unpunished. Some of our cases also have the violation of protection orders as an element. We have had at least two cases involving pregnant women, as well. Jurisdiction becomes difficult in these cases, and these limitations should be addressed so that we can include children in our charges.

We would like to thank DOJ, OVW, and the technical assistance providers who worked hard with the intertribal working group. I hope that the working group continues even when the pilot project ends in March 2015, because other tribes will likely need assistance as they become able to exercise expanded jurisdiction at that time. I would also echo members of other pilot program tribes who have said that we need the allocated \$5 million a year to implement these jurisdictional changes. As tribes, we are doing our part to ensure that our infrastructure is robust, laws are updated, and staff

is trained. We request that the federal government provide the funding as envisioned in the Act, because we are incurring a great deal of additional costs for these prosecutions.

NCIC access is becoming the bane of my existence. It is a highly complicated area, and I appreciate the assistance of Ms. Hurd and Ms. Hagen in maneuvering it. CJIS is not a good partner in this effort; they have not been doing what they need to do. As sovereign nations, we should not be treated as subservient partners to the state. Please do not make us access these systems through the state, especially when they make requests like asking tribes to waive their sovereign immunity. Without access, we are compromising victim and officer safety. We understand that there are technical issues involved in access, but we believe that DOJ and the Attorney General have the authority to dictate how access is granted to tribes. We request that you order CJIS, effective immediately and with high priority, to grant access to tribes on the same basis as it is available to states. We also recommend that DOJ work with BIA to create a system that captures all tribal needs, civil as well as criminal, because these databases should not be separate systems.

Regarding the situation of access to criminal databases in California, we ask that the FBI immediately set up a dedicated line for tribes to call when they need criminal background check information on a California license plate or a California defendant. The risks to officer safety take my breath away, because I know how often officers come upon a car with California plates, and they cannot do a background check to assess the safety risks in approaching the car. These gaps in information are unacceptable, and a line like this would be a supplemental solution until CJIS can accommodate California access to the national databases.

We are in favor of a protection order registry, as well as a SORNA sex offender registry, but we really do need to have access that is equal to what states have.

Regarding VOCA dollars, tribal courts need to have direct access to victim funds in the same way that victims in state and federal courts currently do. If there are 10 victims, and 2 cases are prosecuted in federal courts while 8 cases are prosecuted in tribal courts, only 2 victims get access to VOCA funds, and this is simply not fair. Our victims in tribal courts deserve just as much help.

Tribal domestic violence programs need sustained funding. Do not make us compete against each other. Instead, DOJ should provide base funding to cover our needs. You know what those needs are now; they have been sufficiently documented.

Within our current grants, we need the ability to implement victim-centric treatment for perpetrators. The state curriculum for perpetrators is currently the minimum standard; we should be much further ahead than we are now, but we don't have resources available to dedicate to this project. We ask OVW to provide technical advisors for perpetrator treatment. We need to bring back our men into our communities in ways that will sustain our traditions and cultures. We are also seeing huge trends indicating that our victims have multiple issues. This is not a new realization, but we are seeing that victims were often sexually assaulted as children and have mental health and substance abuse issues as adults along with becoming victims of domestic violence. We need comprehensive programs to address all of these issues. We also have restrictions in our programs for people on drugs, but we don't have any detox resources. These needs must be addressed in the future.

To better address sex trafficking, we strongly encourage the FBI and other law enforcement to train tribal officers on how to spot sex traffickers. We just don't know how to identify them, and we need assistance.

Regarding the BOP pilot project, we ask that it be made permanent. We have one defendant in the BOP program, and we may have another soon. We also ask for appropriate sentencing for people who have violated protection orders. We have offenders who have violated protection orders repeatedly. For someone who had violated protection orders over 400 times, he was able to plead down to 10 violations. Instead, we ask that, after three violations, it should be counted as a felony, with a sentence of 3 years for each violation. For offenders like these, because they are not labeled as violent offenders, we cannot allow them to be incarcerated under the BOP program. This limitation in the pilot program should be waived. Overall, the BOP process should be streamlined.

Finally, on behalf of our Alaska Native brethren, we encourage the federal government to work hard on removing the Alaska exemption in VAWA.

Written Testimony from Herman Williams, Senior Chairman for the Tulalip Tribes

The Tulalip Tribes are successors in interest to the Snohomish, Snoqualmie, Skokomish, and other allied bands signatory to the 1855 Treaty of Point Elliott. As a sovereign government, Tulalip Tribes' governing responsibility is to exercise its powers to best determine the needs of its traditional territory and tribal citizens.

Failed U.S. policy has resulted in great community needs, and the disruption of our traditional life has caused a variety of ills, including a diabetes epidemic, chemical dependency problems, and disproportionate poverty. The needs remain great, and federal grant funding is an important overall component of the Tulalip Tribes' service delivery plan. We have many programs to address these needs and benefit our citizens, but we cannot provide these services exclusively from tribal hard dollars, and we rely on available grants.

Regarding the consultation meeting, we respectfully request that it be more than a 1-day meeting that has an overly ambitious agenda. There are over 500 tribes in the United States that have unique needs based on population, historical background, and geographic location. Meaningful consultation would be a smaller, geographic-specific consultation, where OVW visited tribes to understand their issues and the differences between tribal programs and needs. This would also allow tribes to define the agenda and priorities.

To enhance the safety of American Indian and Alaska Native women from domestic violence, dating violence, sexual assault, stalking, and sex trafficking, we request the following:

- Congress should fund the pilot project for the prosecution of non-Indian domestic violence defendants as provided for in VAWA 2013. Tulalip is one of the three current pilot project tribes exercising special domestic violence criminal jurisdiction. We have fully complied with all requirements, including amending our codes, training our staff, and ensuring that staff meet all necessary requirements. We ask that the federal government provide \$5 million per year, as identified in VAWA 2013 to assist tribes in the exercise of this jurisdiction.

- DOJ must review the limitations currently placed on tribes exercising special domestic violence criminal jurisdiction. In the five cases we have had referred from law enforcement, three have involved children as victims and significant property damage. It is unlikely that any other jurisdiction will address these crimes, and VAWA 2013 does not authorize tribes to do so. We encourage the expansion of the federal law to allow tribes to try related collateral or attendant crimes.
- Funding levels must allow for the sustainability of established tribal programs. Once programs are developed, victims and the entire tribal community begin to trust the process, and sustainability becomes more important.
- We need a permanent tribal set-aside under VOCA that is funded directly to tribes and not as a pass-through of the state block grant programs. VOCA receives more than \$2 billion each year as a result of fines and penalties—not from tax dollars. This money must go out to all victims of crime, not just state or federal court victims. We also need to be able to expand our victim services within communities, so that victims are able to stay in their communities and so communities are made safe for all.
- We need FBI and other law enforcement agencies to share information and train tribal officers on how to spot sex trafficking. We know it is happening, but we do not have training to spot it, and we do not have a formalized plan for responding any differently than a typical law enforcement plan.

To strengthen the federal government’s response to the crimes of domestic violence, dating violence, sexual assault, and stalking, we recommend the following:

- Tribal access to federal and interstate criminal databases, such as NCIC, Interstate Identification Index (III), and Automated Fingerprint Identification System (AFIS), is critical to strengthening the response to domestic violence crimes, but another year has gone by and tribes do not have equal access. Tribal access depends on the state where a tribe is located, and direct access is available only through a pilot project and on a limited basis. Tribes are third sovereign, and should be treated as such in all areas, including access to these databases. In consultation documents, DOJ claims to be working “assiduously the past several years” on the issue of database access, but we challenge DOJ to do more to provide real solutions to all tribes on an equal basis immediately. For tribes that cannot maintain access on their own, DOJ should allow them to contract with other tribal entities rather than require access through the states. Currently, tribes are treated like a subservient agent of the state—the states dictate all access issues.
- The federal government has been imploring tribes to enter data on criminal defendants involved in domestic violence crimes to create a good record that can be accessed by law enforcement agencies, but there are many differences in the treatment of tribes that must be addressed to ensure that tribes have equal access. For example, in Washington state, we only have the option to access databases by signing an MOU with the state. But the non-negotiated terms of the MOU require a waiver of sovereign immunity to access them on even a limited basis.
- NCIC access should be explained in easy-to-understand flow charts, providing information about who can have access and how, and explaining any restrictions.

- DOJ should provide tribes access to California records as a work around. Officer safety, employment background, and other governmental functions depend on complete information. The FBI has tools that they can use to put pressure on the state, but, in the meantime, a solution should be provided.
- The Alaska Native exemption under VAWA Section 910 must be removed. Our Alaska Native sisters deserve the full protections of the law.

To improve the administering of grant funds appropriated for tribal governments and programs created to benefit tribal governments by VAWA and subsequent legislation and reauthorizations, we recommend the following:

- We must have support to sustain and expand current systems and develop infrastructure to meet increased needs. As more victims trust the criminal and judicial systems, more victims emerge. Our programs are still crisis-based, and our communities need to heal. There is significant need.
- We respectfully request that VAWA funding move away from competitive funding and provide block grants to tribes. We need ongoing funding that our programs can depend on. Any formula considered should be based on tribal consultation and current levels, not a revised state formula.
- DOJ should create a tribal working group to develop curricula, training, and ongoing technical assistance for victim-centric perpetrator treatment. These resources should be specific to tribes and tribal regions, and sensitive to cultural considerations. Currently, we use state standards as a minimum, and add tribal components, but this approach is not adequate. We need set-aside funding to develop and expand these resources.
- We need more money for program development for expanded services, such as wrap-around teams and therapeutic housing. Our clients have suffered long-standing victimization, from childhood and originating in previous generations. They have chronic substance abuse and mental health issues. Many have children and may be homeless as a result of domestic violence, but are unable to qualify for private rentals because they have been evicted, have poor credit, and have no family resources. Snohomish County in Washington state has a program called “Triple Play” that provides domestic violence, mental health, and chemical dependency services to all victims. We encourage development of a tribal-specific option to comprehensively address victim needs.
- We need technical assistance for training. We need to be the trainers for our communities, but we would appreciate technical assistance to provide the best training possible.
- We need funding for training that is consistent with tribal values, specifically the ability to provide food at trainings. It is our culture to provide food to guests. In addition, we need funding for training-related costs, such as overtime for officers and other employees who must be trained after work, or in addition to work.
- We need increased funding levels so that we can attract and retain the best people for the job. We are fortunate that Tulalip has funded many staff and programs through hard dollars, but, each year, we must fight to maintain those dollars, and tribal needs across the spectrum are great.

The BOP pilot program should be made permanent, and should be expanded to include nonviolent TLOA and VAWA crimes that qualify for enhanced sentencing. Training materials should be created that describe the process for entry, services available post-incarceration, and other factors, because tribes will use this process infrequently and need to relearn the process each time. The Intertribal Work Group and domestic violence pilot project materials could be beneficial, and the application process should be streamlined so it is less burdensome.

Defendants convicted under the special domestic violence criminal jurisdiction should be included as eligible defendants, as well as repeat violators of domestic violence protection orders and perpetrators of stalking crimes. Currently, protection order violations and stalking crimes are not considered “violent” crimes under the BOP pilot project participation criteria. This narrow view does not recognize that these types of crimes can be just as lethal or impactful as “violent” crimes.

The value of the BOP program goes beyond the obvious benefit of not having a tribe bear the expense of longer term incarceration. The program can be used as a prosecutor tool. There are times when a case could be filed by the U.S. Attorney’s Office, but we feel it is more appropriately addressed in tribal court for various reasons. It may be important to the community to have justice done here at Tulalip. We may address conduct egregious enough that a 2- or 3-year sentence would be appropriate, but we know that, if the case were filed in federal court, it could result in 30 years—essentially life in prison, in some cases. We may be addressing a case that should be prosecuted by the U.S. Attorney’s Office, but they are not willing to take the case. We may be able to offer a significant sentence, but the cost to the tribes would be extreme.

One of the most important benefits of sentencing in federal prisons is that it removes the defendant from the community. Inmates then have less influence on community members and vice-versa. Someone operating a criminal enterprise could continue to do so, if incarcerated locally. Similarly, domestic violence victims would be more easily intimidated and manipulated if visitation were possible. Finally, a county jail, such as the one utilized by our tribe is intended for shorter term incarceration, and offers fewer rehabilitative services that can affect future behavior and recidivism.

Our tribe only became TLOA- and VAWA-qualified in the last 2 years. It is anticipated that as enhanced jurisdiction is asserted more and more, we will use the option of sending our prisoners to federal prison more and more.

Regarding the registries for sex offenders and personal protection orders, Tulalip Tribes do support the effort, but it must not be separate from other law enforcement databases. For tribes needing access, we must provide access, information, and a streamlined, non-complicated entry and search. Tribes must be able to define access, use, and other relevant factors, just as states, territories, and the District of Columbia are allowed to. Currently most tribes rely on states to enter orders, warrants, and other materials, and many factors can delay entry of this information. Sometimes entry may not occur at all because of confusion, lack of training on the part of state staff, and other issues beyond the control of the tribes involved. The most beneficial process would be to provide access directly or through an MOU with another tribe.

Regarding state consultation, as mandated under the STOP formula grant program, the state of Washington has provided no meaningful consultation. In the past, we have had difficulty accessing any other grants funds that are passed through the state, because the state requires extensive reporting for very small grants, and often requires reporting that is significantly different than DOJ requirements, and, thus, more labor intensive. We recommend that these funds be given directly to tribes, and that states be required to apply for funds to work with a specific tribe, rather than the reverse. Providing funding through states creates barriers to access for tribes that are already overburdened with reporting and staff shortages.

In conclusion, we request that OVW revisit the competitive requirement for funding and consider grants that are more focused on funding programs that have developed sustainability plans. We respectfully request that VAWA-based funding move away from competitive funding and provide block grants to tribes that meet base levels for ongoing funding that our programs can depend on.

Washoe Tribe of Nevada and California, Gardnerville, Nevada

Suzanne Garcia, Assistant General Counsel

Regarding the consultation that was announced at the break, we weren't aware of it. Was a Dear Tribal Leader Letter sent out to announce it? We would like a response on this, please.

Detention is an ongoing issue for us in that our law enforcement has to drive 1.5 hours one way to take people to detention. This takes them away from time they would otherwise be able to spend on public safety. In driving those 1.5 hours, they pass two county-operated facilities. These facilities have announced that they are willing to work with BIA, but we were completely excluded from the negotiations on how they might work together. The negotiations broke down, and we cannot get a clear answer on why this was so. We request assistance in resolving this breakdown between BIA and these county detention facilities. This is the fifth year we have brought up this request. We cannot afford having our law enforcement officers taken away from their duties for this amount of time. It is a huge detriment to our public safety.

My chairman asked me to express disappointment in the federal response to crime at Washoe. The lack of response has been disappointing and disheartening. The district of Nevada refuses to let tribes submit cases directly to the district attorney, and requires that we submit them through the middleman of the BIA. When we do this, most cases don't make it. For example, we have two cases involving violent crimes that are sitting in limbo, while our domestic violence service providers are trying to work with the victims to provide healing. Over a year has passed on these cases, and we have little hope that the victims will ever see justice.

In reading the preparatory documents that were released for the consultation, we are pleased that some tribes have been helped by DOJ's efforts, but those solutions have largely passed us by. We are a self-governance tribe, and we have taken over law enforcement from BIA. We have invested a great deal in our justice and law enforcement capacities as a tribe, as well as our service providers for domestic violence, but when the district courts require us to submit cases through a middleman, it takes away the independence we have worked to build. When annual reports are released about the cases in our area, the numbers do not reflect cases rejected by the BIA. The numbers are inaccurate.

Public engagement and faith in our systems is low. We completed a recent study on the community's state of mind, and found that people simply do not report interpersonal violence. They know it does no good. Based on our experiences of the ineffectiveness of justice and law enforcement, they are not wrong to believe this. To prosecute major crimes, we must rely on the U.S. Attorney's Office. We would appreciate assistance in resolving these issues.

Santee Sioux Nation of Nebraska, Niobrara, Nebraska

Misty Thomas, Social Service Director

I would like to recognize Tillie Black Bear and her work, and what a long way we've come. We face problems of epidemic proportions, including meth and prescription drug abuse, which people use as a way to self-medicate in the face of other problems. Access to services is critical, and I am glad that IHS is here to hear our testimony.

My view on formula funding is that not all tribes are the same. They face different issues, and it would be an infringement on tribal sovereignty to apply one formula to all tribes across the board. We are the ones who understand where and how funding would best be allocated. We are already underfunded; we have to run our shelter with one staff person.

Additional Written Testimony From Tribal Leaders

The consultation record remained open until December 1, 2014. Written testimony received from tribes who did not send a representative to the Rapid City consultation event is summarized below.


Akiak Native Community, Akiak, Alaska

Written Testimony from Michael Williams, Tribal Council Representative of the Akiak IRA Council

I serve as the secretary/treasurer of the Akiak Native Community, a federally recognized tribe and Yup'ik Eskimo village in Alaska, located on the west bank of the Kuskokwim River, 42 miles northeast of Bethel. We have over 300 people who live in Akiak, and we have lived here for thousands of years according to our customs and traditions. Our village is not on the state road system, and is only accessible by air and through our river.

I served in the U.S. Army in South Korea in 1972 and, later, after my two older children were born, returned to live and work in the village. I have served in tribal government for over 30 years and have worked for decades as a mental health and substance abuse counselor, seeing first-hand the issues of suicide, domestic violence, sexual abuse, and drug and alcohol abuse. I am currently Alternate Area Vice President in NCAI. I have been a member of NCAI's task force on violence against women, and I support the implementation of AFN recommendation resolutions from 2013 and 2014.

We support an amendment to Section 904 that would delete the term "Indian Country" to include Alaska Native villages, and we support deleting Section 910. Section 904 of VAWA 2013 recognizes the inherent tribal authority over non-Indian domestic violence offenders, and it uses "Indian Country" in its language. Up until the 1998 Supreme Court case *Alaska v. Ventie*, Alaska Native



villages were legally included in the definition of Indian Country. All women included in the 1998 definition of Indian Country are now better protected, but 228 federally recognized tribes, and most Alaska Native women, were left out in the cold. If the inclusion of “Indian Country” in Section 904 was due to draft errors, there should be no resistance to immediately making the correction by removing these two words. Section 910 would have to be removed altogether.

Native American women are already 2.5 times more likely to be raped or sexually assaulted than other American women. This is a result of living conditions created by governmental and corporate policies that prioritize profit over basic human rights. The vastness of Alaska works against the victims in our villages, especially given the lack of services and resources in these rural villages. We have about 140 Native villages across the state with no state law enforcement. The state of Alaska says they plan to place public safety officers in each village in the next 10 years. In the meantime, and depending on the weather, village residents are days from having a state trooper available to respond to violence or crimes and enforce the state’s laws. About 50 villages have village or tribal law enforcement, but about 90 have no protection whatsoever. Those who commit crimes against women and children are well aware of this reality, resulting in a lack of accountability for offenders.

We also recommend that DOJ issue a clarification that Alaska Native villages retain the authority to issue orders of protection. It is nearly impossible to get a restraining order when there is no judge in the village. We may have to travel by snow machine, boat, or plane to get to the nearest state court. When violence occurs, most people have nowhere to go for support.

About 86% of the perpetrators of violence against our Native women are non-Native men. The passage of VAWA 2013 restored domestic violence jurisdiction over non-Indian abusers and civil protection order power over all persons to tribal courts. This is part of the answer for communities without state courts available to issue restraining and protective orders. But Section 910, the special rule for the state of Alaska, has caused confusion over whether Alaska tribal courts can issue and enforce protection orders.

OVW should coordinate closely with other offices in DOJ and DOI to immediately hold the state accountable under VAWA’s full faith and credit provision for recognizing and enforcing life-saving protection orders issued by Alaska tribal courts. The state has too long been out of compliance with these specific mandates in VAWA, yet continues to receive STOP formula funding each year.

The Bakken oil boom has received recent attention from the media and from DOJ, but this problem is not new to Native women. Any time the environment has been disrupted or exploited in any way, Native tribes and Native women have experienced this disruption as violence. Alaska Native women have experienced such violence throughout the history of the Russian and U.S. governments, including the building of the Trans-Alaska Pipeline and commercial fisheries. This violence is evident in our high rates of suicide, cancer and other health problems, violence against women, alcohol- and substance abuse-related deaths, and other problems. To respond to these issues in Alaska, OVW should dedicate Tribal Sexual Assault Services Program funds to develop and support Alaska Native village-based advocacy services in Alaska. IHS should also require all contracted health care providers, like those serving Alaska Natives, to train staff, adopt and implement sexual assault response protocol, and ensure 24/7 local access to sexual assault forensic examinations and medical care.

FVPSA funding over the last 30 years has been critical to victims of domestic violence in the village, but recent cuts have severely limited access to these life-saving services. Akiak strongly supports increased overall FVPSA appropriations, an increase for the FVPSA tribal allocation from 10% to at least 15%, and the creation of a separate, annual, non-competitive funding source specific to Alaska Native tribes out of the tribal allocation. Additionally, the current formula should be changed so that tribes can opt to receive annual base funding based on the population of enrolled tribal members, as opposed to census numbers. Census numbers do not reflect the actual numbers of tribal members or victims eligible and being served within Alaska Native villages.

Applying and administering discretionary federal funds is not a realistic options for most Alaska Native villages who don't have grant writers or affordable, consistent Internet. Over the last 20 years of VAWA, including the last several years under CTAS, no more than 20 Alaska Native village governments have ever applied for, received, and maintained OVW funding. Despite DOJ's attempts at streamlining, how engaged are Alaska Native tribal governments with DOJ or DOI in the development of tribal justice systems? How much do Alaska Native tribes receive in justice funding, especially given the unwritten BIA policy statement by Assistant Secretary for Indian Affairs Kevin Washburn during the February 2014 Senate Oversight hearing on the ILOC report?


OVW and the federal government, generally, should reach out to corporations or federal agencies that can address improving affordable, reliable internet access in Alaska, especially in remote villages where the cost of living is extremely high. When village-based services, such as shelter or law enforcement, have to prioritize how to use the little funding they receive, paying for internet access that is expensive and unreliable often falls off the priority list.

Applying for and administering OVW and BIA funding should not be burdensome to tribes. OVW and BIA should implement annual formula funding to distribute funds for victim and justice services to Alaska Native tribes, especially where women and governments have not benefitted from VAWA in the last 20 years or BIA funding for the last 50 years since the passage of PL 280.

Regarding state consultation with tribes on STOP formula funding, the state of Alaska has not complied with the VAWA 2013 amendment requiring state consultation with Indian tribes in the development of the state STOP implementation plan. The state did not provide any notice to the Village of Akiak; nor did it consult or coordinate with us in how to implement STOP funding over the next 3 years.

Our understanding of the VAWA amendment is that it is to ensure that tribes benefit from the STOP formula distribution, especially now that, per VAWA 2013, tribal populations are included in state population figures used in the funding formula. Furthermore, the state of Alaska has informed us that tribal governments are not eligible to apply to the state for any share of the formula funding that the state receives.

We request that OVW and the FVPSA offices work with the state of Alaska to ensure 1) that tribal governments are eligible to apply to the state for STOP formula funding and FVPSA funding, and 2) that the state consult and coordinate with all of Alaska's tribal governments.



Because of the 4-hour time difference, Alaska Native tribes have access to OVW and other federal agency staff only half the time that they are available to people in other areas of the country. This problem has been shared repeatedly with OVW over the years. Akiak recommends that OVW open an office in Alaska, just as it has in other parts of the country. The office should be staffed by individuals who understand the unique legal and jurisdictional circumstances of Alaska Native tribes and related policies. To ensure that staff are trained on the special circumstances related to Alaska Native tribes, OVW and FVPSA should set aside technical assistance funding for FY 2015 for the Alaska Native Women's Resource Center to provide policy development, technical assistance, and training for federal staff and for technical assistance providers working with the state and nonprofit state coalition. Training and technical assistance provided by OVW to Alaska Native tribes has historically been uninformed about the legal and jurisdictional barriers faced by Alaska Native tribes. All required OVW training must be designed to address the unique circumstances of Alaska tribes. The Alaska Native Women's Resource Center should also be funded by OVW to schedule a Unity Meeting on violence against women at the 2015 AFN annual convention. The annual BIA Providers Conference is another opportunity to engage with Alaska tribes. It is long overdue that DOJ, DOI, and HHS coordinate and plan for regular consultations with Alaska Native tribes.

The Village of Akiak fully supports the AFN resolutions of 2013 and 2014 on protecting Alaska Native women from domestic violence and sexual assault. These resolutions were adopted unanimously both years, and we look forward to working with the Alaska Native Women's Resource Center, village-based advocates, other Alaska tribes, and the AFN on the implementation of resolution recommendations to increase the safety of Native women. We encourage OVW and FVPSA offices to support training and technical assistance designed and provided by these partners.

The federal government has not conducted government-to-government consultation with Alaska Native tribal governments on the proposed Alaska Safe Families and Villages Act of 2014. While the act rightly calls for the repeal of Section 910 of VAWA 2013, the remainder of the act is not supportive of village governments to provide local safety measures for their members. The Village of Akiak urges that the act be amended to recognize and enhance local tribal authority in all Alaska Native villages so that tribes, not the state or federal government, can determine for themselves how to best address the domestic and sexual violence occurring in villages. We also recommend that DOJ, DOI, and HHS support timely implementation of the recommendations from the ILOC report that support the development of local tribal capacity to respond to crimes.

Indian tribes are currently shut out of VOCA funding, the largest federal funding source for crime victims. Consistent with NCAI Resolution ANC 014-048, we ask DOJ to advocate for an increase in the VOCA funding cap and the creation of a 10% set-aside for tribal governments.

Since 2003, tribal leaders have raised the issue of the inadequate response of law enforcement agencies to missing persons reports of Native women that, subsequently, often become abduction, rape, and domestic violence homicide cases. We urge DOJ to establish a high-level working group to develop and institute a training protocol and alert system to increase response in cases of missing Native persons.

The Land Into Trust rule should be implemented immediately. Placing land into trust on behalf of tribes promotes self-governance, one of Congress's primary objectives in creating Section 5 of

the Indian Reorganization Act, 25 USC 465, 25 USC 472a. It restores tribal homelands, ensuring that tribes are able to develop economically and leading to increased public safety, health care, education, and overall welfare for tribal members. Placing land in trust in Alaska is immediately necessary to ensure that tribes have the authority to protect their women. Any continuation of the Alaska exception, and any continued failure to restore Alaska tribal homelands, constitutes an injustice of epic proportions.

Finally, OVW and other federal agencies should respect Alaska Native times of subsistence activities and not schedule grant deadlines or other required events during those times. The busiest times of year are from May to September, when we gather the majority of our subsistence foods for the rest of the year. Many Alaska Native people still live and practice our subsistence way of life. When grant deadlines or other events occur during our subsistence activities, you are asking us to choose between what has ensured our people's survival for thousands of years and what is required by a 2- or 3- year grant.

We have worked tirelessly to establish a working relationship with the state of Alaska through changes in state administrations, but we have experienced ongoing resistance to tribes asserting and exercising the tribal jurisdiction we are entitled to as U.S. citizens and sovereign peoples. We had high hopes when the state initiated a "Choose Respect" movement, but, as has been the case for too long, "choosing respect" has not been afforded to Alaska Native women or tribal governments. The state cannot afford to protect our women and children in our villages, and they do not support Alaska Native governments protecting our own people.

We urge OVW to consult with Alaska Native tribal governments in a meaningful way, and to carry out the trust responsibility you accepted when you bought Alaska from the Russians. Spend time understanding our challenges and strengths, and institutionalize what you learn in policy so that it is not lost when federal staff changes. The lives, safety, and health of our people are your federal trust responsibility.

Barona Band of Mission Indians, Lakeside, California

Written Testimony from Clifford M. LaChappa, Chairman

It is with great honor that I present these concerns on behalf of the Barona Band of Mission Indians, as well as the Southern Indian Health Council, Inc., of which I am a member. The council coordinates the programs that support awareness efforts for our local tribal community about sexual and relationship violence. Many of our concerns are mirrored by other tribes, and many have been brought up in previous years. We respectfully request an outlined update in order to see progress, purpose, and outcomes with the government-to-government consultations. It is important that we be able to see the actual outcomes of the consultations, not just the intent.

Regarding the federal administration of tribal grant funds, we have the following recommendations:

- Currently, the 10% set-aside is a very small amount of money, especially compared to the amount allotted for general grant programs. If the intent is to make a difference, a greater percentage of funding must be made available.

- In VOCA funding, there is no tribal set-aside within the \$8 billion budget. Please tell us how we are to be successful in seeking grant funding when we need to provide statistics and data, yet we don't have funds to help victims and support them in leaving violent situations.
- We are encountering more barriers when we seek funding, especially related to requirements to provide data. Data gathering is complicated by historical trauma, as well as by the fact that we represent very small tribal bands ranging from 5 to 1,000 members—and this is only in comparison to other tribes, not even the general grant seeking population. Our self-administered tribal programs are put in competition with larger, privately run organizations. One local example is: if law enforcement responds to a call and the victim chooses not to press charges and the case is not prosecuted, the documentation of law enforcement response is limited. Thus, we do not have access to accurate numbers to document true case occurrences.
- The restriction of using funds in a culturally appropriate way to provide and share food at community events is a challenge. Changing this restriction is essential. Other programs demonstrate success when they demonstrate that they can culturally relate to the community.

Regarding enhancing the safety of American Indian and Alaska Native women from domestic violence, dating violence, sexual assault, stalking, and sex trafficking, we recommend the following:

- Federal dollars must be reallocated to provide greater funding for prevention and early intervention and to create sustainable programs for children and youth. As these programs are sustained, this new generation will be able to lead change for the community based on traditions and values.
- Programs should allow for transgenerational gatherings, so community elders and youth have opportunities to connect. Change can be found in listening between generations, and the discussion will allow for healing and for the two generations to guide one another.
- Grants must include opportunities to work with perpetrators and victims together. Current guidelines limit our ability to make this happen, but statistically, perpetrators and victims will rejoin each other. Treating them together is an essential element to success.
- Disparities in health care for women must be addressed, especially as it relates to domestic violence and sexual assault. This health care must include mental, physical, and spiritual health of the American Indian and Alaska Native population.
- We have recently seen a trend of women being held as the primary offender. Although the fact of their crimes cannot be overlooked, we also cannot overlook the history of previous experiences that lead a woman to feel that violence is her only answer.
- Custody battles between parents must be addressed. If custody is not filed for children, perpetrators can take them, adding another layer of issues.
- Sex trafficking on tribal lands must be addressed. Programming must counteract the luring of women into sex trafficking situations, especially in areas that are economically and socially struggling, where women are more vulnerable.

Regarding strengthening the federal response to the crime of domestic violence, dating violence, sexual assault, stalking, and sex trafficking, we recommend the following:

- Grants requiring team work and collaboration are essential, but their challenges must be addressed. Nothing requires federal agencies or state partners to be an active team participant in collaborations. Getting partners to sign on to grants takes great effort and a long working history—things that may be out of the control of a member of a grant team. Although we acknowledge that a professional team approach is essential, continuing to mandate the involvement of partners is challenging. We recommend that DOJ find a less restrictive means to encourage this cooperation. We also suggest that federal and state agencies outline the expectations for their agency when working at a local level, including being accountable to the success of local programs.

It is imperative to recognize the trust and treaty responsibilities of the United States government to tribal populations. These responsibilities must be honored and carried out.

Native Village of Emmonak, Emmonak, Alaska

Written Testimony from Martha Kelly, Chairwoman, Emmonak Tribal Council

The Village of Emmonak is a Yup'ik Eskimo village with a population of approximately 800 enrolled tribal members located in southwestern Alaska. There are no road systems in the entire region—the river is our highway. Our primary mode of transportation includes boats in the summer months and snow machines in the winter. Depending on weather, entry into and out of the villages may be severely restricted for days or even weeks.

The Emmonak Women's Shelter is the only village-based tribal shelter throughout the whole state of Alaska, and it provides services to 13 federally recognized Yup'ik tribes or villages: Alakanuk, Chevak, Emmonak, Hooper Bay, Kotlik, Marshall, Mountain Village, Nunam Iqua, Pilot Station, Pitkas Point, Russian Mission, St. Mary's, and Scammon Bay. The Wade Hampton region has approximately 7,800 residents and most are Yup'ik Eskimos. The villages are geographically isolated from each other and accessible only by air or water, weather permitting.

Title IX, Section 903 of VAWA 2005 recognizes the importance of annual government-to-government consultation. Emmonak recognizes that successful prevention and accountability measures to address violence against Alaska Native women must be executed through government consultation that upholds Emmonak's traditional governance and culture.

We commend DOJ for following the VAWA 2013 mandate requiring 120 days' notice to Indian tribes of the date, time, and location of this year's consultation. Tribal leaders, especially those traveling from remote areas of Alaska, require adequate time to schedule our attendance at the annual consultation. We ask the Attorney General to continue to prioritize advance scheduling for future consultation meetings.

We also have the following recommendations regarding the consultation event:

- Extend the consultation time by 1 additional day (after consulting and coordinating with Alaska tribes) if the time allocated to tribal leaders to express their statements, concerns, and questions is insufficient.

- Require DOJ to not only describe actions taken in the previous year to address recommendations from the previous year’s consultation, but to also develop an action plan that addresses concerns and recommendations of tribal leaders and further makes it available to Alaska tribes within 90 days of the consultation.
- Conduct and fund separate, annual coordinated consultations in the state of Alaska with Alaska Native tribes (ensuring tribal leadership representation from each region) and federal agencies responsible for responding to violence against women, including, but not limited to DOJ, DOI, IHS, and HHS.

Last November, ILOC released its finding and recommendations, titled *A Roadmap for Making Native America Safer*. The report confirms the alarmingly high rates of domestic, sexual, and other forms of violence, including murder, against Alaska Native women that continue to permeate the state of Alaska. The dire situation is documented by the following facts in the report:

- Alaska Native women are disproportionately victimized at the highest rates in the country. Although they make up 19% of the population, they are 47% of the state’s reported rape victims.
- Alaska Native women have reported rates of domestic violence up to 10 times higher than in the United States, and the rate of sexual violence victimization was at least 7 times the non-Native rate.

The inadequate response by law enforcement is an important barrier to the safety of Alaska Native women. Historically, this has included the lack of a comprehensive infrastructure to address safety and provide accountability for domestic and sexual violence in Alaska’s villages. The state of Alaska has also failed in its responsibility to provide law enforcement in rural Alaska. These facts have created the dangerous reality that currently the only people standing between women and batterers and rapists is the local community. Women’s lives depend largely on the local community’s ability to provide immediate protection and assistance. The ILOC report states that “the Emmonak Women’s Shelter is located in a region in which there are few police officers, no transitional housing for women, and limited options for women seeking to escape.”

Emmonak supports the ILOC recommendation to recognize local control and accountability concerning public safety. Developing a local response for a serious local problem is the only assurance that women and children in rural Alaska are provided the basic human right to safety. Villages without local law enforcement must currently rely on Alaska State Troopers, which poses many barriers to an adequate and timely law enforcement response.

Regarding local control of law enforcement, Emmonak has the following recommendations:

- Restore the authority of Alaska Native villages to design and carry out local, culturally relevant solutions to address the lack of law enforcement in villages.
- Provide training and funding directly to villages for Village Police Officers and Village Public Safety Officers who serve as the immediate responders to crimes occurring within Alaska Native villages. Law enforcement that is created and administered by Alaska’s tribes will be more responsive to the needs of their villages, allowing for greater local control, responsibility, and accountability.

- Work closely with Alaska Natives and villages to address habitual and serial offenders of domestic and sexual violence who continue to walk free among the villages.

When President Obama signed VAWA 2013, Emmonak celebrated with our Native sisters in the lower 48 states for the justice they stood to achieve through the tribal provision affirming the inherent sovereignty of tribes over non-Indians involving certain acts of domestic violence. However, Emmonak could not and still cannot fathom why Alaska Native women are not afforded the same human and legal rights as women in the lower 48 states.

As a result of the special rule for Alaska in Section 910, the Village of Emmonak and the majority of Alaska tribes (with the exception of the Metlakatla Indian Community) are not able to provide adequate protections for women within our villages. The special rule ignores and exacerbates the existing crisis of domestic and sexual violence in Alaska and in Alaska Native villages. It is another example of the incredible barriers that Alaska Native villages continue to face concerning the safety of Alaska Native women. The ILOC report notes, “the existing reality is that the state of Alaska’s current centralized law enforcement and justice systems do not work for the remote villages of Alaska,” and that “the problems with safety in tribal communities are severe, but they are systematically the worst in Alaska.”

Regarding Section 910, Emmonak recommends the following:

- Immediately repeal Section 910 with urgent action from Congress to affirm the inherent criminal jurisdiction of Alaska Native tribal governments over members and non-Indian residents within the external boundaries of their villages.
- Restore and enhance authority to Alaska’s Native tribal governments for the safety and welfare of village residents, including Alaska Native women, to adequately address issues of justice and hold perpetrators accountable.

Given the highest rates of domestic and sexual violence committed against Alaska Native women, an equitable set-aside of federal and state resources is required to develop solutions and comprehensively address the health and safety of village residents. Historically, the federal government and the state of Alaska have not allocated resources to Alaska Native villages; instead, both governments have supported laws, policies, and practices that have limited Alaska tribal government authority to protect and ensure the health of members and citizens.

To address the issue of equitable funding, Emmonak recommends the following:

- The OVW tribal government grant program should be changed to a non-competitive annual formula-based program in Alaska. Funding among Alaska Native villages should not be on a competitive basis, because it is the responsibility of the federal government to assist all Indian tribes, not just some Indian tribes. Most villages in our region have never received a grant under the OVW tribal government program.
- Ensure that training and technical assistance programs and providers have expertise in working with Alaska Native tribes and villages, and that training and technical assistance address the complexities of Alaska Native issues and jurisdiction in the curriculum.

- Establish a permanent tribal set-aside under VOCA. Currently there is no dedicated tribal funding stream under VOCA, which is unacceptable given the epidemic rates of violence occurring against Alaska Native women. An above-the-cap amount for tribes would go far in reducing the current disparity in allocation of VOCA funds.
- Recognize and respect traditional and cultural values by allowing the Village of Emmonak and other Alaska tribal recipients of funding to expend funds on food and beverages at OVW-funded meetings and conferences, as was previously allowed.

Emmonak strongly supports a separate, annual, non-competitive funding source specific to Alaska Native tribes. Current FVPSA funding is wholly inadequate to support sustainable services within Emmonak and other villages.

Emmonak joined a number of other Alaska Native tribes in support of a new resolution for consideration at the 2014 AFN convention. The resolution, *Increasing Safety of Alaska Native Women*, supports, among other issues, a separate FVPSA funding source specific to Alaska Native tribes; requests that a solicitation be released for a regional domestic violence resource center in partnership with the Alaska Native Women's Resource Center, as provided under the FVPSA of 2010; and requests resources and support for the Resource Center to coordinate with AFN to support an annual Unity meeting prior to each AFN convention to focus on increasing the safety of Alaska Native women.

Related to revisions to FVPSA funding, Emmonak recommends the following:

- Allocate separate, annual, non-competitive funding to Alaska Native tribes for life-saving services, including but not limited to law enforcement, advocacy, community outreach and education efforts, shelter and direct victim services, village initiatives, sexual assault forensic examinations in rural villages, and culturally appropriate batterer re-education services.
- Change the current FVPSA distribution formula to one where each tribe receives annual base funding based on the population of *enrolled tribal members*, as opposed to *census numbers*. Census numbers are clearly outdated and do not reflect the actual number of victims being served within the village or, in the case of Emmonak, in the entire Wade Hampton region.

After reviewing the STOP formula grant requirements for states to consult with tribes, the Village of Emmonak is concerned that the state of Alaska did not comply with the consultation requirements when the state submitted their implementation plan to OVW. The state of Alaska did not provide notice to Emmonak as a tribal government, nor did it consult or coordinate with Emmonak in deciding how to develop and implement the state STOP plan.

Director of the Yup'ik Women's Coalition Lenora Hootch was invited to attend a single meeting with the state as a "content area expert," but we question the validity of considering this meeting a "consultation," as defined by VAWA 2013 or by the STOP formula grant program. Finally, while Ms. Hootch repeatedly advocated for the outstanding needs of Emmonak and Alaska Native villages, the state's STOP plan does not reflect our concerns or critical needs.

It is more important than ever that we increase our collaboration efforts and ensure that resources are provided to all women in Alaska, and especially to Alaska Native women in remote villages. The Emmonak women's shelter serves about 500 women and children per year from more than a dozen villages in the Yukon River delta, but our shelter was forced to close for 2 weeks after exhausting funding. We cannot allow another closure to leave Alaska Native women and their families in peril.

While not all VAWA 2013 amendments apply to Alaska Native villages to date, the amendment that states consult with Indian tribes created hope that VAWA resources under the STOP state formula would finally reach our village and other Yup'ik villages. In light of the lack of appropriate and meaningful consultation by the state of Alaska, we ask that you provide real meaning to this amendment.

Regarding state consultation under the STOP formula program, the Village of Emmonak requests that the state of Alaska be held accountable to meet consultation requirements, including the following:


- Request that OVW clarify the appropriate processes and requirements that the state of Alaska must take to be in compliance with all requirements before funding is disbursed to the state.
- Clarify the processes required by the state to consult and coordinate with tribes, including which representatives are to be contacted, when and how they are to be provided adequate notice, and requiring documentation from each member of the planning committee as to their participation in the planning process.
- Require certification from the state as to appropriate tribal participation from all 229 Alaska villages.
- Require the state to provide how funds directly support local village-based responses addressing the safety of Alaska Native women within the 229 Alaska villages.

The Village of Emmonak urges that these issues be recognized and elevated as national issues. As the ILOC report points out, problems in Alaska are so severe, and the numbers of Alaska Native communities affected are so large, that continuing to exempt the state from national policy change is wrong, and sets Alaska apart from the progress that has become possible in the rest of Indian Country.

Native Village of Tetlin, Tetlin, Alaska

Written Testimony from Donald Adams, Chief/President for Tetlin Village

Tetlin Village was unable to send a representative to the Rapid City consultation event due to the budget, and we write to provide our concerns and recommendations. Tetlin Village is a traditional village with approximately 386 enrolled members. It was established by Athabascan people traveling seasonally between hunting and fishing camps. Despite strong assimilative influences, important elements of the traditional Athabascan culture remain today. A seven-member council governs Tetlin, and is responsible for all village functions and for the welfare of its people.



The Village of Tetlin strongly recommends that federal officials within DOJ, DOI, and HHS consider and support the recommendations provided in the Indian Law and Order Commission report, especially as provided in Chapter Two, “Reforming Justice for Alaska Natives: The Time Is Now.” The report provides critical documentation of the systemic barriers, challenges, and jurisdictional limitations faced by Alaska Native governments attempting to protect their women, address crime, and hold perpetrators responsible. ILOC points to the U.S. and state government policies as primary causes for wide gaps in public safety, because they severely diminish a tribe’s ability to self-govern in Alaska. Tetlin supports ILOC’s recommendations that addressing the strongly centralized law enforcement and justice systems of the state of Alaska, and devolving authority to Alaska Native communities, is essential for addressing local crime.

The Village of Tetlin supports the 2013 and 2014 AFN resolutions to address violence against Alaska Native women, which were adopted unanimously in 2013 and 2014 by convention delegates. We look forward to working with advocates, Alaska tribes, and the AFN on implementing the resolutions’ recommendations. We encourage OVW to work with the FVPSA Office to support technical assistance and training designed and provided by the Alaska Native Women’s Resource Center, village-based governments, and Alaska Native tribal governments.

The Village of Tetlin recommends to change the OVW tribal government grants program from a competitive program to an annual formula grant program. An annual formula-based program would provide much needed base support to respond to crimes of violence against Native women beyond the already stretched resources and volunteer time of the tribe and community members. Tetlin does not receive, and has not received any funding from the state of Alaska or OVW to support domestic violence or sexual assault service programs. Additionally, there are no funding or collaboration efforts from the state of Alaska to address needs in different villages or regions. Current funding levels, including resources for direct services, often do not reach victims who are most in need of services.

Although Tetlin Village has a FVPSA grant, the amount has been drastically cut over the last several years, and does not provide adequate resources for the needs of domestic violence and sexual assault survivors. The Village of Tetlin strongly supports increased overall FVPSA appropriations; an increase for the FVPSA tribal allocation from 10% to at least 15%; and a separate, noncompetitive funding source specific to Alaska Native tribes. In addition, the current distribution formula should be changed to allow each tribe to opt to receive annual base funding based on enrolled tribal members, as opposed to census numbers. Census numbers are outdated and do not reflect the actual number of tribal members or victims being served.

We also support the newly drafted AFN resolution that calls for the immediate implementation of ILOC recommendations, as well as the following:

- consultation with Alaska Native tribal governments to develop FVPSA funding specific to adequately support Alaska Native tribes;
- release of a solicitation for a state resource center to reduce tribal disparities;

- funding of an Alaska Native resource center through the Alaska Native Women’s Resource Center, as provided under the Family Violence Prevention Services Act of 2010 (CAPT A Chapter 110, Section 10410); and
- resources and support for the Resource Center to coordinate with AFN to support an annual Unity meeting prior to each annual AFN convention to address the safety of Alaska Native women.

With meaningful access to FVPSA funds, Tetlin could provide culturally appropriate services based on Athabascan values, including Native shelter services, counseling services, and victim assistance initiatives and programs. Murders due to domestic violence remain underreported because of the co-occurrence of alcohol and drug abuse and generational learned behavior. Most victims do not seek help because of confidentiality concerns and the humiliation of long processes in the legal system where justice is typically denied them. The Tok clinic does not provide sexual assault forensic examinations, so victims must travel by ambulance or airplane to Fairbanks, approximately 226 miles away. The closest shelter is also in Fairbanks. It is usually cost prohibitive for victims to make use of and it is not designed for Native victims and their families. The safe home provided in Tetlin is for short stays only, up to 3 days. Tetlin cannot offer aftercare for women and children who have been victimized, even though education and prevention is critical.

Tetlin has a Tribal Family Youth Specialist for Child Welfare, but she oversees a demanding caseload and is overwhelmed with court proceedings and other cases. Without a dedicated first responder, first responders in practice often include village council members, health aides, or any other village employees, including volunteers. Limited resources make it hard to hire advocates. Tok Junction is the closest hub that houses an Alaska State Troopers’ office, and it can take 6 hours or more for troopers to respond to crimes in Tetlin.

Regarding STOP funding and consultation between states and tribes, the Village of Tetlin questions whether Alaska complied with the consultation requirements of VAWA 2013 in submitting their STOP implementation plan. The state did not provide notice to our village, nor did it consult or coordinate with Tetlin in deciding how to develop and implement the state plan. Based upon our review, Alaska submitted its plan without consulting with its 229 villages.

In addition, we have been informed by the state that tribal governments are not eligible to apply to the state for access to STOP funds. We will not receive any funding under the current situation, even though tribal populations are now included in each state’s population for STOP funding distribution under VAWA 2013.

The Village of Tetlin recommends that DOJ support the repeal of Section 910 of VAWA, the special rule for the state of Alaska. Tetlin has a fully functioning tribal court with a written code of tribal ordinances that focuses on problem solving and strategic planning within the community to prevent crime and violence. Through the knowledge gained from our grandparents and elders, our code reflects the traditional values of the Tetlin people. Our court is a strong system that is far better suited than distant state courts to handle local crimes and prosecution. As such, the authority of the Tetlin Tribal Court should be supported, including the immediate repeal of Section 910.



The current federal and state systems are not working, and continue to undermine the local control and accountability needed to protect Alaska Native women. Despite repeated efforts to work with the State Troopers and the state court systems to track perpetrators and protect victims, this tracking system is not a priority for the state. The ILOC report emphasizes that Alaska Natives living in rural areas have not had access to the level and quality of public safety services “that they should rightly expect as U.S. citizens.” In addition, the ILOC report notes that many of the VAWA amendment provisions apply even in the absence of Indian Country and, clearly, should be the purview of tribal courts in Alaska.

The Village of Tetlin has additional concerns and recommendations about addressing language accessibility. Alaska Natives, including those in the Village of Tetlin, typically speak our Native languages fluently. But state employees, urban service providers, and shelter services in all regions do not have Alaska Native language interpreters on staff. The absence of interpreters or advocates versed in Alaska Native languages and culture negatively impacts the delivery of essential response services to Alaska Native women who are victims of violence. Therefore, we strongly recommend that grantees in Alaska that receive VAWA funding be required to hire, or have available, staff who are Alaska Native, speak the language, and understand the culture of the population of Alaska Native women to be served. The OVW application process should also be revised to ensure access and fairness toward Alaska Native, limited-English applications.

Finally, the Village of Tetlin has concerns regarding the proposed Alaska Safe Families and Villages Act of 2014. As proposed, it falls far short of restoring and enhancing the tribal authority necessary to effectively address crimes occurring in the remote villages of Alaska. It appropriately calls for the repeal of Section 910 of VAWA 2013, but does not go on to adequately support villages in providing safety and justice for their members. We would like to see DOJ assist with strengthening this and other legislation that is intended to increase safety in Alaska Native villages. The proposed Act should be amended to promote, recognize, and enhance the local authority of all Alaska Native villages.

Nottawaseppi Huron Band of the Pottawatomi, Fulton, Michigan

Written Testimony from the Nottawaseppi Huron Band of the Pottawatomi

The Nottawaseppi Huron Band of the Pottawatomi (NHBP) is located in southwest Michigan on the Pine Creek Reservation. NHBP was federally re-recognized on December 19, 1995. The land base includes approximately 586 acres, of which 200 acres are lands held in trust by the United States and the remainder is land held in fee simple.

The NHBP was one of approximately 40 tribes participating in the Intertribal Technical Assistance Working Group on special domestic violence criminal jurisdiction, as provided for in VAWA 2013. We would like to thank Congress, the Obama administration, DOJ, DOI, NCAI, TLPI, and NCJFCJ for support, leadership, and assistance to the working group.

The NHBP, as a tribal government, has a duty to protect its citizens, especially women and children, and the tribe wants to ensure prompt response by law enforcement and prosecution of domestic violence crimes. The tribal council, the Culture Committee, and tribal members and employees are committed to ending the cycle of violence.

Tradition and culture are deeply rooted on the reservation, and we are guided by Bode'wadmi tradition and values, recognizing the interconnectedness of every person and everything. The actions of an individual or a group of people will impact the whole community, and we seek consensus so that decisions made will benefit the whole of our community for this and for the next seven generations. The tribe strives to be guided by the Seven Grandfather Teachings, and NBHP domestic violence code reflects those values.

The following services are currently available to victims of domestic violence:

- The NHBP police department provides information to victims about state services and other victim services in the county, as well as other tribal services.
- The NHBP tribal court assists victims in filling out petitions to request personal protection orders, based on tribal court rules and tribal code.
- The NHBP behavioral health department provides individual counseling to victims.

We currently have a low reported number of domestic violence cases within the tribe, but many cases go unreported. Victims may also be reluctant to request services from local county domestic violence shelters, and may wish to stay on the reservation to receive culturally relevant services. Upon passage of NBHP VAWA domestic violence code, and as victims become aware of services available through the tribe, we anticipate that the number of victims reporting will increase, and more services will need to be provided. Also, as the tribe adds more housing for the benefit of its members, more tribal members are returning to live in their homeland.

NBHP does not have a victim services program. We do not currently receive any direct funding for domestic violence services from the federal government or from the state. As such, NHBP has a good working relationship, including referring victims to SAFE Place, the local domestic violence shelter in Battle Creek, MI. Their services have been sufficient up to this point, but NHBP will wish to expand services with the passage of NHBP VAWA domestic violence code, including providing culturally relevant services to domestic violence victims within the tribe.

CTAS is one of the most common sources of federal funding to tribal governments on a recurring basis. Although recurring, this funding is highly competitive, with only 54 awards in FY 2014. Additionally, the funding for CTAS has remained unchanged for the past 3 fiscal years.

STOP grants are DOJ's largest funding stream made directly available to states. Tribes are not directly eligible for STOP funds, despite the changes provided under VAWA 2013, including the requirement that states must consult with tribes in program implementation. STOP also provides that funding be provided for a 10% set-aside within victim services for culturally specific, community-based organizations. While NHBP would prefer to receive funding directly from DOJ, we anticipate requesting to receive a portion of the 10% set-aside. We are committed to providing culturally specific services that address domestic violence, dating violence, sexual assault, and stalking that are supported by collaboration and tailored to the unique needs of the NHBP population.

NHBP would like to recognize the following challenges to VAWA and TLOA implementation:

- The cost of VAWA and TLOA implementation are very high and must be fully covered by each tribe, with no federal assistance. Tribes must meet federal statutory standards so challenges to the new laws can be held to a minimum. Supreme Court rulings also impact special domestic violence criminal jurisdiction authority for tribes in how misdemeanor domestic violence arrests are interpreted by the court under this new authority, as well as habeas corpus appeals that are expected as tribes exercise this new jurisdiction.
- The law requires that tribes supply public defenders for the accused and, thus, take on the cost of a full-blown adversarial system, including additional litigation, appeals, evidentiary hearings, scientific evidentiary analysis, additional investigation, expert testimony, additional data collection, and a host of administrative and indirect costs, all of which a tribe must financially provide with no federal financial assistance.
- Detention and medical treatment costs for non-Indian defendants must be considered.
- Victim services must still be provided. While not a federal requirement in the VAWA, tribes would be remiss in not providing services to victims of domestic violence. Services are also needed for children who are victims or witnesses of domestic violence.
- VAWA and TLOA implementation place high demands on tribal justice systems by providing a wide range of defendant services. They must have the operational capacity to process effective prosecution of defendants and, at the same time, provide all of the constitutional rights that are mandated.

NHBP submits these additional recommendations:

- There must be a permanent set-aside under VOCA that is funded directly to tribes, not as a pass-through under state programs. Services to victims should be provided in their own communities, but limits to services and limits to federal funding prevent this.
- NHBP agrees with the recommendations of the OVW Working Group, formed in 2013, that recommended to extend funds to more tribes to enhance stability and sustainability for existing tribal programs. They also recommended to lower total awards or limit awards to every 3 years, in order to reach more tribes. OVW should also provide technical assistance to tribes so they successfully compete for OVW funding. The Working Group also urged OVW to bring all federal partners to the table to discuss tribal funding and to notify tribes when funding levels are likely to change.
- NHBP concurs with NCAI Resolution #ANC-14-048, which supports a dedicated tribal set-aside in the VOCA fund to fund tribes; tribal programs; and nonprofit, nongovernmental tribal organizations located on reservations, villages, and other Indian areas that provide services to Native victims of domestic or sexual violence.
- NHBP was recently informed by the Michigan Domestic & Sexual Violence Prevention Treatment Board, the STOP and VAWA administering agency for Michigan, that the amount of the 10% setaside within victim services for culturally specific, community-based organizations was \$122,000. That is not an acceptable amount for the 12 federally recognized tribes in Michigan and the non-federally recognized tribes in Michigan. More funding must be appropriated for tribes to provide culturally specific victim services on their reservations.

Based on the November 2013 report of the Indian Law and Order Commission, NHBP would like to agree with the recommendations of the commission, as follows:

- A new Indian Country agency should be established with DOJ, overseen by an Assistant Attorney General. The enacting legislation should affirm that this agency retains a trust responsibility for Indian Country and, among other things, authorizes services to tribes, as necessary.
- Congress should end all grant-based and competitive Indian Country criminal justice funding in DOJ, and, instead, pool these monies to establish permanent, recurring base funding for tribal law enforcement and justice services administered by the new DOJ tribal agency.
- To better allocate tribal funds, DOJ should consult with tribes to develop a distribution formula for base funds and a method for awarding capacity-building dollars. Base fund monies should be designated as “no year,” so that tribes that are unable to immediately qualify for access do not lose their allocations. Finally, DOJ should annually set aside 5% of the consolidated grant monies as a designated capacity building fund for tribal criminal justice systems, which will assist tribes in taking maximum advantage of base funds, strengthening the foundation for tribal local control.
- Congress should set aside a commensurate portion of resources (including funding, technical assistance, training, etc.) to invest in reentry, second-chance, and alternatives to incarceration monies for Indian Country, the same way it does for state governments. This will help ensure that tribal government funding for these purposes is ongoing. These resources should be managed by the new Indian County unit in DOJ and administered using a base funding model. Tribes are encouraged to develop and enhance drug courts, wellness courts, residential treatment programs, combined substance abuse treatment-mental health care programs, electronic monitoring programs, veterans’ courts, clean and sober housing facilities, halfway houses, and other diversion and reentry options, and to develop data that further inform the prioritization of alternatives to detention.
- DOJ’s attempts to streamline tribal funding and, particularly, the creation and refinement of the CTAS grant program is a positive step, but consultation with tribes must be conducted on how to achieve the required flexibility in administering funding.

NHBP has these additional recommendations for the amendment of VAWA:

- The definition of domestic violence used by VAWA should be expanded to include crimes that do not require an element of “offensive touching,” such as threats and intimidation, criminal damage to property, trespassing, child endangerment, and others.
- Special domestic violence criminal jurisdiction should be expanded to include coverage of children, property, pets, and other vulnerable family members. Domestic violence perpetrators often destroy property, harm children and pets, and harm other family members.
- Congress should repeal Section 910 of Title IX of the VAWA 2013 and, thereby, permit Alaska Native communities and their courts to address domestic violence and sexual assault committed by tribal members and non-Natives, the same as what now will be done in the lower 48.

As ILOC cites in its report, public safety in Indian Country can improve dramatically once Native nations and tribes have greater freedom to build and maintain their own criminal justice systems.

Lunch Presentation Summary: National Institute of Justice Violence Against Indian Women Research

During the lunch hour, a presentation was provided on the National Institute of Justice (NIJ) program of research to examine violence against American Indian and Alaska Native women living in tribal communities. The presenters were Christine Crossland, a senior social science analyst and director of the Office of Research and Evaluation, and Ada Pecos Melton, the president of American Indian Development Associates, Inc., (AIDA) and project director for the national baseline study research contract. This research effort is authorized under VAWA 2005, Section 904, and amended in VAWA 2013, Section 907. NIJ, as one of DOJ's two science and research agencies, has been charged with implementing the studies. AIDA, an American Indian-owned research firm, received the contract to work with NIJ to conduct the national baseline study. The national baseline study is the first comprehensive, national-scale research effort to investigate American Indian and Alaska Native women's experiences of violence, and it will gather public health and safety information on a scale that has not been available before. NIJ's research efforts encompass other projects, as well, such as studies focused on sex trafficking and murdered and missing cases in Indian Country.

Pilot Study

Prior to the national baseline study, a pilot study was conducted from 2009 to 2012 to lay the foundation for further research. It developed and tested culturally appropriate research questions and research methodologies at several identified tribal communities, and it also tested methods for recruiting and selecting survey participants. The pilot study was developed and conducted with input from tribal stakeholders, and approved by tribal leaders from the pilot communities involved, to ensure that the national baseline study would be viable, culturally and community appropriate, and respectful of those involved, and that the information collected would be relevant and helpful to national policymakers and tribal communities.

National Baseline Study

The national baseline study is being conducted over a period of 42 months, beginning in 2014 and concluding in 2017. The purpose is to understand the experiences of American Indian and Alaska Native women, along with gathering numbers and data directly from tribal communities, using culturally appropriate research methods and speaking to people directly in their own environment. The study will ask about women's experience of violence, the supports they have available, and their opinions about law enforcement and justice systems. The study aims to quantify the magnitude of violence and victimization among American Indian and Alaska Native women in tribal communities, producing the most comprehensive national data set drawn directly from tribal communities available to date.

The goal of this research is to help identify factors that place Native women at risk for victimization, to explore possible solutions, and to inform the actions of policy makers, tribal leadership, and judicial leadership. When the national baseline study is completed, recommendations will be given to the Task Force on Violence Against American Indian and Alaska Native Women, a task force of experts and stakeholders who have guided NIJ's research efforts since 2008. The research and recommendations will also be presented to Congress.

Ms. Crossland and Ms. Pecos Melton highlighted several elements of the national baseline study during their presentation.

- The site coordinators and field interviewers who organize and conduct the study in different communities will be hired and trained from those communities, so that the study will be conducted by people with cultural competence and sensitivity to Native communities and contexts. Interpreters will be hired, as needed, to ensure that there are no language barriers.
- Coordinators and interviewers will be trained and certified in protecting confidentiality, so that the privacy of people participating in the study is ensured.
- Special interview tools, such as a computer assisted-self-interview and an audio-assisted self-interview, will be used for the most sensitive and intimate topics, so that study participants can share information in a safe and private environment. These tools have been pilot tested and were very much appreciated by the communities and individuals who used them.
- Questions in the study will cover a range of time periods in a participant's life: recent, past year, and lifetime.
- Because talking about these topics can be a trigger for trauma and distress, trauma support will be available for participants.
- Childcare will be available for women with children who participate in the study.

Tribal Community Reviews and Approval

At a national level, the national baseline study will be approved by the Office of Management and Budget and by the IHS institutional review board (IRB). This review process is meant to ensure that the study will produce useful and actionable research for federal programs, and that it conforms to the ethical standards that govern health and behavioral research involving people. The study can also be approved by tribal IRBs or tribal councils that serve as a community's IRB.

Community Outreach

A goal of NIJ's research is to produce results that are usable and helpful for many different users—for tribal leaders and decision makers, policy makers, administrators, service providers, and even individuals. Ms. Pecos Melton explained that community outreach and marketing, to help tribal communities learn about the study, its importance, and its benefits, will be an important aspect of conducting the national baseline study. She encouraged audience members to bring information about the study back to their communities to increase awareness and support for it.



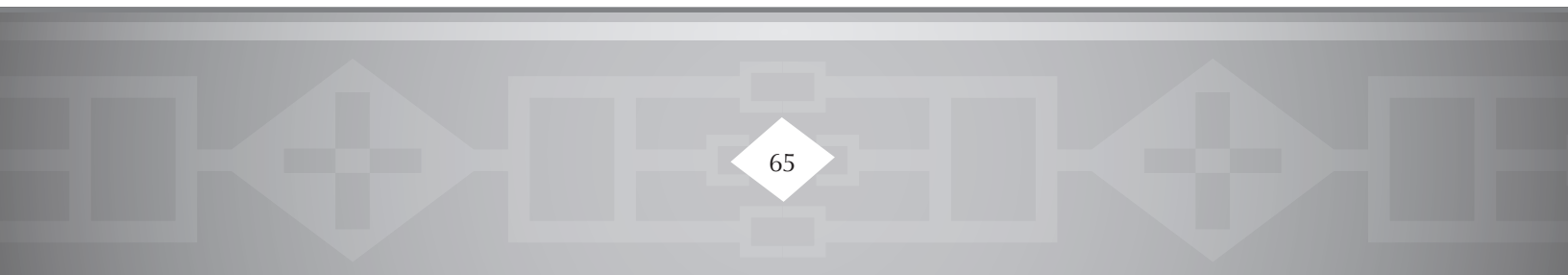
Closing and Adjournment

At the closing of the consultation, Ms. Edmo reminded participants that the record will remain open until December 1, 2014, and written testimony may be submitted until then. Ms. Edmo adjourned the annual tribal consultation for 2014. The color guard retrieved the colors and a closing song was performed by the host drum.



APPENDIX 1:
CONSULTATION PARTICIPANTS

Working Together to End the Violence



Consultation Participants

Tribal Representatives

Name	Title and Organization
Jeurei Iron Shell	Student, Rosebud Sioux Tribe
Patricia Iron Cloud	Vice Chairwoman, Fort Peck Assiniboine & Sioux Tribes
Jean Roach	
Mitzi Sabori	Tribal Council Member/Secretary, Shoshone-Bannock Tribes
Heather Dawn Thompson	Practice Group Attorney, Greenberg Traurig LLP
Lorri Ann Two Bulls	Business Owner, Oglala Sioux Tribe
Sheila Slow Bear	Advocate, Oglala Sioux Tribe
Vikki Eagle Bear	Project Manager, Rosebud Sioux Tribe Defending Childhood Initiative
Sharon Jones Hayden	Domestic Violence Prosecutor, Tulalip Tribes
Anne Falla	Domestic Violence Program Coordinator, Confederated Tribes of Grand Ronde
Bennae Calac	Indian Social Services—Indian Child Welfare Act Liaison, Pauma-Yuima Band of Mission Indians
Misty Thomas	Director of Social Services, Santee Sioux Nation of Nebraska
Joleen Abourezk	Great Plains Tribal Chairmen
Hilda Cooney	Council Member, Hualapai Tribe
Connie C. Brushbreaker	Director, Rosebud Sioux Tribe Diabetes Prevention Program
Jodie A. McAdams	Councilwoman, Eastern Shoshone Tribe
Nikki Jo Finkbonner	Program Coordinator, Lummi Nation Victims of Crime Program
Jacqueline Agtuca	Policy Advisor, National Indigenous Women's Resource Center
Daniel Lucero	Tribal Citizen, Taos Pueblo

Name	Title and Organization
Olinka M. Jones	Program Director, Akiak Native Community
Peter Yucupicio	Chairman, Pascua Yaqui Tribe
Betty Jo Piengkham	Council Member, Kalispel Tribe
Arlana Bettelyoun	Program Director, Oglala Lakota Court-Appointed Special Advocates
Jean Hammond	Board Member, Oglala Lakota Court-Appointed Special Advocates
Judy Bronco	Board Member/Volunteer, Shoshone-Bannock Tribes Volunteer
Michelle Demmert	Reservation Attorney, Tulalip Tribes
Tara Suzanne Azure	Training & Resource Specialist, National Indigenous Women's Resource Center
Raymond Buelna	Council Member, Pascua Yaqui Tribe of Arizona
Verlaine W. Gullickson	Consultant, Wiconi Wawokiya, Inc.
Phyllis Young	Tribal Council Representative, Standing Rock Sioux Tribe
Jesse Jay Taken Alive	Tribal Council Representative, Standing Rock Sioux Tribe
Bonnie Clairmont	Victim Advocacy Specialist, Tribal Law and Policy Institute
Harry R. Barnes	Chairman , Blackfeet Tribal Business Council
Bruce Bauer	Sex Offender Registration and Notification Act Compliance Officer, Fort Peck Assiniboine and Sioux Tribes Family Violence Resource Center
Lynette Good Voice	Grant Writer, Rosebud Sioux Tribe
Megan LaFromboise	Public Defender, Sisseton-Wahpeton Oyate Attorney's Office
Joni Johnson	Advocate, Fort Peck Assiniboine and Sioux Tribes Family Violence Resource Center
Gwendolyn Gourneau	Cultural Counselor, Fort Peck Assiniboine and Sioux Tribes Family Violence Resource Center

Name	Title and Organization
Herman Honanie	Hopi Tribal Chairman, Hopi-Tewa Women's Coalition to End Abuse
Jennifer Irving	Assistant to President, Oglala Sioux Tribe
Norman D. Running, Jr.	Tribal Sexual Assault Response Team Liaison, Rosebud Sioux Tribe Domestic Violence Prevention Initiative
Verzella Lee Bauman	Cultural Outreach Specialist, Flandreau Santee Sioux Tribe
Florence Choyou	Board Member, Hopi-Tewa Women's Coalition to End Abuse
Shanon Silbernagel	Lead Probation Officer, Standing Rock Tribal Court
Sarah Reynolds	Grant Writer, Rosebud Sioux Tribe Sicangu Resource Development
Grace L. Her Many Horses	Criminal Investigator, Three Affiliated Tribes Law Enforcement
Frankie Telano Grosebeck	Wind River Sex Offender Registration and Notification Act Assistant, Wind River Sex Offender Registration and Notification Act
Kristina A. Bishop	Domestic Violence/Transitional Housing Coordinator, Flandreau Santee Sioux Tribe
Romalita Laban	Executive Director, Hopi-Tewa Women's Coalition to End Abuse
Calvin Waln, Jr.	Tribal Council Representative, Rosebud Sioux Tribe
Lucille D. Johnson	Director of Family Services, Bristol Bay Native Association
Elizabeth L. Kingi	Director, Oglala Sioux Tribe Victim Services Program
Sunrise Black Bull	Lead Case Coordinator, Rosebud Sioux Tribe Defending Childhood Initiative
Marcella Medicine Blanket	Case Coordinator, Rosebud Sioux Tribe Defending Childhood Initiative
Jill Engel	Chief Prosecutor, Pascua Yaqui Tribe
OJ Flores	Assistant Chief Prosecutor, Pascua Yaqui Tribe

Name	Title and Organization
Beatriz Blue Arakawa	Program Manager, Victim Advocate, and Community Organizer, Lower Elwha Klallam Tribe
Jeromy Christiansen	Sex Offender Registration and Notification Act Compliance Officer, Family Violence Resource Center
Roxanne Gourneau	Tribal Executive Board Member, Fort Peck Assiniboine and Sioux Tribes
Tami J. Truett Jerue	Tribal Administrator, Anvik Village
Fawn Williamson	Prosecutor's Office Administrative Assistant, Fort Belknap Indian Community
Yvonne Laird	Tribal Prosecutor/Special Assistant U.S. Attorney, Fort Belknap Indian Community
Coleen Clark	Administrative Assistant/Data Grant Manager, Fort Peck Assiniboine and Sioux Tribes Family Violence Resource Center
Summer Lunderman	Education Outreach Coordinator, White Buffalo Calf Woman Society
Vi Waln	Editor, Lakota Country Times
Suzanne M Garcia	Assistant General Counsel, Washoe Tribe of Nevada and California
Dellis M. Agard	Court Administrator, Standing Rock Tribal Court
Carrie Imus	Director, Hualapai Human Services
Joann Whatoname	Domestic Violence Manager, Hualapai Human Services
Deborah Clark	Domestic Violence Coordinator, Hualapai Human Services
Stephen Weaver	Social Services Administrator, Morongo Band of Mission Indians
Linda Elizabeth Thompson	Executive Director, First Nations Women's Alliance
Marie Anita Stone	Tribal Secretary, Mashpee Wampanoag Tribe
Frank Demolli	Chief Judge, Pueblo of Santa Clara
Alana Lynn Owen	Reentry Program Manager, Sac and Fox Nation



Name	Title and Organization
Lavonne Peck	Tribal Chair, La Jolla Band of Luiseno Indians
Frances Charles	Tribal Chairwoman, Lower Elwha Klallam Tribe
Tatewin Means	Attorney General, Oglala Sioux Tribe
Kendra Lynn Smith	Wind River Sex Offender Registration and Notification Act Director, Wind River Sex Offender Registration and Notification Act
Shaun Eastman	Attorney, Sisseton-Wahpeton Oyate
Monique Pleets	Women's Shelter Manager, Standing Rock Sioux Tribe
Fred Urbina	Attorney General, Pascua Yaqui Tribe
Desiree Coyote	Family Violence Services Program Manager, Confederated Tribes of the Umatilla Indian Reservation
Leo Stewart	Vice Chairman, Board of Trustees, Confederated Tribes of the Umatilla Indian Reservation
Brent Leonhard	Associate Attorney General, Confederated Tribes of the Umatilla Indian Reservation
Michelle Bowers	Victim Services Supervisor, Fallon Paiute-Shoshone Tribe
Germaine Omish-Guachena	Executive Director, Strong Hearted Native Women's Coalition, Inc.
Audrey Jim	Domestic Abuse Manager, Shoshone-Bannock Tribes
Andrea Johnson	Lummi Victims of Crime Office Manager, Lummi Indian Business Council
Roxanne Sazue	Chairwoman, Crow Creek Sioux Tribe
Marlys Big Eagle	Victim Witness Coordinator, Crow Creek Sioux Tribe
Gene Hughes	Spokane Tribal Council Member, Spokane Tribe

Federal Representatives

Name	Title and Organization
Christine R. Crossland	Senior Social Science Analyst, U.S. Department of Justice
Shannon May	National SANE-SART Coordinator, Federal Bureau of Investigation
Kara Moller	Program Specialist, U.S. Department of Justice, Office on Violence Against Women
Jeremy R. Jehangiri	National Native American Issues Coordinator, U.S. Department of Justice
David Adams	Special Assistant U.S. Attorney, U.S. Department of Justice/ Pueblo of Laguna
Doresa Payton	Grant Program Specialist, U.S. Department of Justice, Office on Violence Against Women
Marcia Hurd	Counsel to the Director, U.S. Department of Justice, Office of Tribal Justice
Lanisha Bell	National Coordinator/Program Manager, Bureau of Indian Affairs, Office of Justice Services
Darla R. Sims	Program Specialist, U.S. Department of Justice, Office on Violence Against Women
Gena Tyner-Dawson	Senior Advisor: Tribal Affairs, Department of Justice, Office of Justice Programs
Beverly Fletcher	Program Specialist, U.S. Department of Justice, Office on Violence Against Women
Beverly Cotton	Director of Behavioral Health, Indian Health Service
Frances Cook	Attorney Advisor, U.S. Department of Justice, Office on Violence Against Women
Doug Semisch	Assistant U.S. Attorney, United States Attorney's Office
Mario Lyle Redlegs	Special Agent in Charge, Bureau of Indian Affairs, Office of Justice Services

Name	Title and Organization
Shena Williams	Senior Program Specialist, Administration for Children and Families, Family Violence Prevention & Services
Shawn Matthews	Supervisory Special Agent, Federal Bureau of Investigation
Bea Hanson	Principal Deputy Director, U.S. Department of Justice, Office on Violence Against Women
Lorraine P. Edmo	Deputy Director for Tribal Affairs, U.S. Department of Justice, Office on Violence Against Women
Eileen Garry	Deputy Director, U.S. Department of Justice

Other Attendees

Name	Title and Organization
John Dossett	General Council, National Congress of American Indians
Mary M. Corbine	Executive Director, Working Against Violence, Inc.
Eric Broderick	Task Force Committee Member, Task Force on American Indian and Alaska Native Children Exposed to Violence
Brian Warde	Operation Director, Southwest Center for Law and Policy
Arlene O'Brien	Director of Programing, Southwest Center for Law and Policy
Shawn Soulsby	Chief Executive Officer, Technology Alliance of Indigenous Women of the Americas
Mary Malefyt Seighman	Consultant, Alliance of Local Service Organizations
Marisol Giraud	Program Associate, Alliance of Local Service Organizations
Dorma L. Sahneyah	Program Specialist, National Indigenous Women's Resource Center
Carmen O'Leary	Director, Native Women's Society of the Great Plains

Name	Title and Organization
Paula Julian	Program Specialist, National Indigenous Women's Resource Center
Brenda Hill	Native Co-Director, South Dakota Coalition Ending Domestic and Sexual Violence





APPENDIX 2:
CONSULTATION AGENDA

Working Together to End the Violence

Additional consultation materials are available on the OVW website at www.ovw.usdoj.gov.

Agenda

Tuesday, October 14, 2014

Pre-Meeting

1:30 p.m.–4:30 p.m. **Training Session: Federal Criminal Databases and Information Sharing (Washington Room)**

Trainers: Leslie A. Hagen, National Indian Country Training Coordinator, and Allison Turkel, Senior Policy Advisor in the DOJ Sex Offender, Monitoring, Apprehending, Registering, and Tracking Office

The ability of tribes to access federal criminal databases has been addressed in a number of federal laws the past 10 years. And, in 2005, Congress passed Section 905(b) of VAWA which provided for the creation of a tribal sex offender and protection order registries to facilitate record collection and information sharing. Since the enactment of VAWA 2005, three significant pieces of legislation impacting tribes have passed: The Sex Offender Registration and Notification Act of 2006 (SORNA; Title 1 of the Adam Walsh Child protection and Safety Act), the NICS Improvement Amendments Act of 2007 (NIAA), the Tribal Law and Order Act of 2010 (TLOA), and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). Each of these Acts have significantly increased the importance of tribes' need for record keeping, data collection, information sharing and access to federal criminal databases, like NCIC.

The majority of federal criminal databases are run by the FBI's Criminal Justice Information Services Division (CJIS). CJIS was established in February 1992 to serve as the focal point and central repository for criminal justice information services in the FBI. Programs housed within the CJIS Division include: the National Crime Information Center (NCIC), Uniform Crime Reporting (UCR), the Integrated Automated Fingerprint Identification System (IAFIS), National Palm Print System (NPPS), and the National Incident-Based Reporting System (NIBRS), among other information sharing portals.

This training will provide information about the various federal criminal databases, requirements for accessing and submitting information to the databases, considerations for tribal leaders as they work to implement TLOA and VAWA 2013, current DOJ efforts to increase tribal access to federal criminal databases, and an update on implementation of Section 905(b) of VAWA 2005.

Agenda

Wednesday, October 15, 2014

Tribal Consultation

8 a.m.–9 a.m.

Registration (Rushmore Foyer Area)

9 a.m.–9:30 a.m.

Welcome (Rushmore Room)

*Lorraine Edmo (Shoshone-Bannock), Deputy Director for Tribal Affairs,
Office on Violence Against Women, DOJ*

Flag Song

Host Drum: *Ateyapi*

Lead Singer: *Whitney Rencountre II (Crow Creek Sioux), Rapid City, SD*

Color Guard: *Native American Veterans Association Post #1 of Rapid City, SD,
staffed by Master Sargent Dino Holy Eagle (Cheyenne River Sioux) and
Corporal Ed Cut Grass (Oglala Sioux)*

Traditional Opening

*The Honorable Roxanne Sazue, Chairwoman, Crow Creek Sioux Tribal Council,
Ft. Thompson, SD*

Shawl Ceremony

Native Women's Society of the Great Plains, Carmen O'Leary, Director

Welcoming Remarks

*The Honorable Cyril Scott, President, Rosebud Sioux Tribal Council,
Rosebud, SD*

*The Honorable Brendan V. Johnson, United States Attorney, District of
South Dakota, DOJ*

9:30 a.m.–10 a.m.

Government-to-Government Consultation (Rushmore Room)

Co-Facilitator: Lorraine Edmo (Shoshone-Bannock)

*Co-Facilitator: Erin Shanley (Cheyenne River Sioux), Special Assistant U.S.
Attorney for the Standing Rock Sioux Tribe*

Update from Last Consultation

*Bea Hanson, Principal Deputy Director, Office on Violence Against Women,
DOJ*

U.S. Department of Justice
Government-to-Government
Violence Against Women Tribal Consultation
Rapid City, SD - October 15, 2014

Federal Agency Update

Remarks from Leadership of the Department of Health and Human Services and the Interior

10 a.m.–10:30 a.m.

Tribal Leader Introductions

10:30 a.m. – 12 p.m.

Tribal Leader Testimony

12 p.m. – 1:30 p.m.

Lunch Presentation (Rushmore Room)

National Institute of Justice’s Program of Research Examining Violence against American Indian and Alaska Native Women Living in Tribal Communities

Christine Crossland, Senior Social Science Analyst, Office of Research and Evaluation Director, American Indian and Alaska Native Violence Prevention Research Program, National Institute of Justice

Ada Pecos Melton, President, American Indian Development Associates, LLC, and Project Director, National Baseline Study Research Contract

1:30 p.m. – 4:30 p.m.

Tribal Leader Testimony (Rushmore Room)

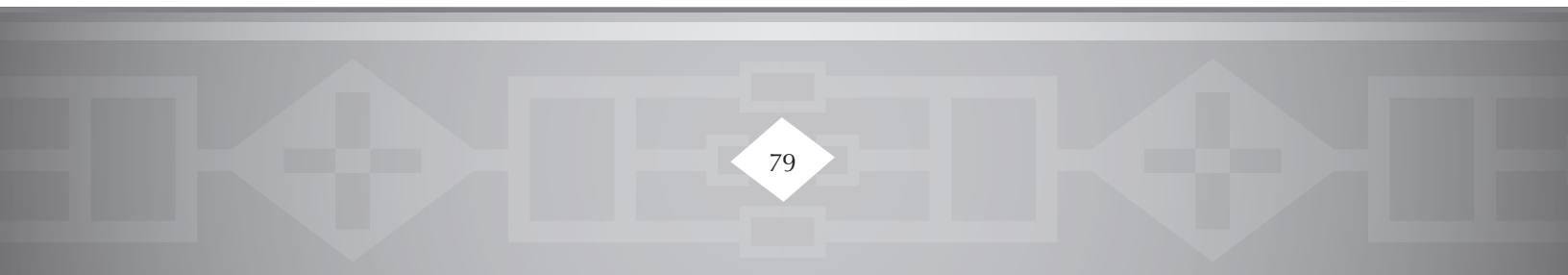
4:30 p.m. – 5 p.m.

Traditional Closing and Summary Comments



APPENDIX 3:
WRITTEN TESTIMONY RECEIVED

Working Together to End the Violence



Written Testimony Received

DOJ accepted written testimony through December 1, 2014. Some written testimony was read into the record by tribal representatives during the consultation event. The list below shows tribes that submitted written testimony, and cross-references where their written and oral testimonies are summarized in the consultation report.

Akiak Native Community, Akiak, Alaska

The Akiak Native Community submitted written testimony by Michael Williams, tribal council representative. The summary of this testimony begins on page 45.

Anvik Village, Anvik, Alaska

Written testimony was submitted by Anvik Village, along with oral testimony given at the consultation event. A summary of both oral and written testimony from Anvik begins on page 6.

Barona Band of Mission Indians, Lakeside, California

The Barona Band submitted written testimony that is summarized starting on page 49.

Confederated Tribes of the Umatilla Indian Reservation, Pendleton, Oregon

A written statement was submitted by Gary Burke, chairman of the Board of Trustees of the Confederated Tribes of the Umatilla Reservation. A summary of the statement is presented, along with oral testimony from tribal representatives given at the consultation event, beginning on page 9.

Crow Creek Sioux Tribe, Fort Thompson, South Dakota

The written testimony of Roxanne Sazue, chair of the Crow Creek Tribal Council, was read into the record during the tribal consultation. Please see the oral testimony from the Crow Creek Sioux Tribe on page 23.

Fort Peck Assiniboine & Sioux Tribes, Poplar, Montana

On behalf of the Fort Peck Tribes, Patricia Iron Cloud submitted a copy of Fort Peck's application for funding under DOJ's Bakken Region Initiative. Points related to violence against women and increased risks faced by the tribe due to Bakken region oil development were highlighted. These points are summarized under the testimony from the Fort Peck and Assiniboine Sioux Tribes, which begins on page 30.

Hopi Tribe, Second Mesa, Arizona

The written testimony presented by the Hopi Tribe was read into the consultation record by Chairman Herman Honanie, which is summarized beginning on page 35.

Hualapai Tribe, Peach Springs, Arizona

Written testimony submitted by the Hualapai Tribe was read into the record by Carol Imus, Hualapai tribal council member. Please see the oral testimony from the Hualapai Tribe beginning on page 34.

Native Village of Emmonak, Emmonak, Alaska

Written testimony was submitted by Martha Kelly, chairwoman of the Emmonak Tribal Council. The testimony is summarized beginning on page 51.

Native Village of Tetlin, Tetlin, Alaska

The Tetlin Village Council submitted written testimony. A summary of the testimony is presented beginning on page 55. Testimony from 2013 and 2014 is included, because Tetlin's testimony submitted to the 2013 consultation was wrongly omitted from the 2013 OVW consultation report.

Nottawaseppi Huron Band of the Pottawatomi, Fulton, Michigan

Written testimony submitted by the Nottawaseppi Huron Band of the Pottawatomi is summarized beginning on page 58.

Pascua Yaqui Tribe, Sells, Arizona

A written statement was submitted by the Honorable Peter Yucupicio, Chairman of the Pascua Yaqui Tribe of Arizona. A summary of the statement is presented, along with oral testimony from tribal representatives, beginning on page 26.

Rosebud Sioux Tribe, Rosebud, South Dakota

The opening remarks of President Cyril Scott were submitted as testimony from the Rosebud Sioux Tribe. Please see where his remarks are summarized, beginning on page 2.

Tulalip Tribes, Tulalip, Washington

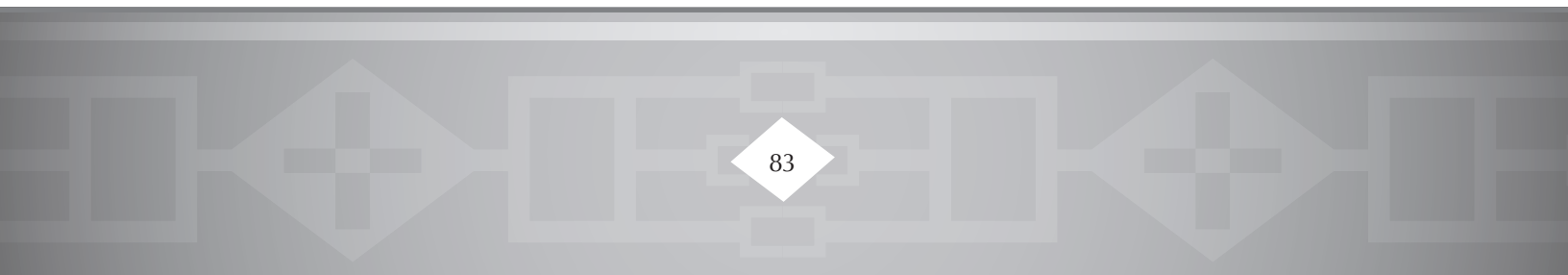
Tulalip Tribes submitted a written statement from Herman Williams, senior chairman. A summary of the statement is presented, along with oral testimony from tribal representatives given at the consultation event, beginning on page 38.





APPENDIX 4:
REPORT ON CONSULTATION REGARDING
FORMULA DISTRIBUTION OF TRIBAL
GOVERNMENT PROGRAM FUNDS

Working Together to End the Violence





Introduction

Since the annual VAWA Tribal Consultation in 2012, the Office on Violence Against Women (OVW) has been engaged in an ongoing consultation process with tribal leaders regarding how best to administer funding to tribes through the Grants to Tribal Governments (Tribal Governments) Program. In particular, OVW has discussed with tribal leaders and advocates whether OVW should shift from a competitive, discretionary model for distributing tribal grant funds to an annual formula distribution.

After carefully considering recommendations made by tribal leaders, tribal advocates, and a working group of volunteers from the 2013 VAWA Tribal Consultation, OVW has concluded that it should not implement formula distribution of the Tribal Governments Program. In keeping with suggestions received over the course of this consultation, OVW will continue to implement changes made in the FY 2014 funding cycle that were designed to broaden the availability of Tribal Governments Program funding to more tribes. OVW also will continue to support tribal efforts to compete for funding from other OVW programs. Finally, OVW remains committed to working with other federal partners to identify funding strategies that best meet the needs of the tribes.

History of Tribal Consultation on Formula Issue

Beginning with OVW's first annual VAWA Tribal Consultation in 2006, some tribal leaders and advocates have advocated that OVW should distribute its tribal funds on a formula basis. Supporters of a formula distribution emphasized that such a distribution would be more consistent with the government-to-government relationship than a discretionary model. They also noted that a formula distribution could enhance stability and sustainability of tribal programs.

In response to these recurring comments, OVW circulated a scoping paper in advance of its 2012 annual Tribal Consultation posing the following three consultation questions:

- Should OVW shift from a competitive, discretionary model for distributing tribal grant funds to an annual formula distribution?
- If so, what should the formula for distribution look like and how should OVW make this determination?
- How should OVW structure a process for identifying other questions related to adopting a formula distribution model and obtain tribal input?

At the 2012 Consultation, the majority of tribal leaders who addressed the formula question expressed some support for the idea, but they requested more information about what the formula would mean for their individual tribes. Specifically, several tribal leaders requested that OVW develop possible model formulas for their consideration. At the March 2013 NCAI Executive and Task Force on Violence Against Women meetings, tribal leaders



reiterated the need to develop a series of options for the formula with specific examples of how the formula could impact tribes.

In response to these requests for concrete examples, OVW presented a new paper regarding funding options at a June 2013 meeting of the NCAI Task Force on Violence Against Women. OVW outlined five different hypothetical formulas and showed how each would affect the award size for seven tribes of differing population size. A paper setting forth these hypothetical formulas was also shared at OVW's November 2013 Tribal Consultation in Washington, DC, where OVW again invited tribal leaders to consider whether OVW should shift to an annual formula distribution of tribal funds. This paper formed the basis of a robust conversation at the Tribal Consultation, but there was no consensus among tribal leaders on the issue. Some leaders suggested that OVW form a working group to continue discussion of the issue between consultations. OVW therefore collected names of tribal leaders and advocates willing to serve on such a group.

Since the 2013 Consultation, OVW has sought to find additional opportunities to explore this issue with tribal leaders and stakeholders. Principal Deputy Director Bea Hanson and Tribal Deputy Director Lorraine Edmo held multiple listening sessions on the topic at a variety of tribal meetings, including the CTAS Orientation/OVW Tribal Coalitions New Grantee Orientation held in Albuquerque, NM on February 5-6, 2014, the February 26, 2014 meeting of the Attorney General's Tribal Nations Leadership Council, and a March 11, 2014 meeting of the NCAI Task Force on Violence Against Women. From these sessions, as well as the 2013 Tribal Consultation, OVW compiled dozens of comments from tribes and tribal organizations on the subject of changing to a formula system.

In the comments received, OVW continued to find a lack of agreement among tribal leaders whether to support a formula distribution. A majority of commenters expressed concern about changing to a formula funding system. The most commonly cited concern by tribal leaders was that their tribe's funding would suffer. Commenters also noted that their tribes would lose current services and that smaller formula awards could not support comprehensive victim services. A number of commenters noted that tribal population is not a good measure of a tribe's need, and funds should not be distributed on this basis. Two commenters conceded that, despite their own opposition to the formula, they recognized that it could be beneficial to make funding available to tribes that have not previously been able to access it.

Among the significant number of commenters who supported formula funding, the most commonly cited reason was that it would give tribes more stability in their funds from year to year and programs would be more sustainable. A number of commenters noted that a formula would open funding to tribes who had not previously received competitive awards. Others reasoned that, by streamlining the grant application and review process, a formula system could result in awards being made more quickly. Two commenters noted that, for a formula system to work, there would need to be a large enough funding base to ensure that awards are sufficient to meet tribes' needs.



Views of Tribal Leaders and Advocates on Working Group

On March 18, 2014, Tribal Deputy Director Edmo convened a conference call with members of the working group of tribal leaders and advocates who had volunteered at the 2013 Consultation to assist OVW in these deliberations. On this call, OVW shared the substance of comments that OVW had received, reiterated that the Office had not yet reached any decision how to proceed, and requested the groups' input on whether OVW should continue to consider a change to formula funding. The Tribal Deputy Director solicited the working group's ideas on how, if OVW did not move to a formula, OVW could administer the Tribal Governments Program so as to reach more tribes.

On the call, despite support for the *principle* of formula funding, the overwhelming consensus was that there are too many hurdles to implementing formula funding at this time and for OVW funding alone. The dilemma, as articulated by one of the working group's tribal leaders, is this: with current funding levels, it is impossible to accomplish the goals of both providing basic services at all tribes *and* maintaining comprehensive, successful programs at others. Furthermore, some members noted the extraordinary difficulty of identifying a fair formula that would account for the many different variables of tribal need, including population of tribes, size of reservation, and remoteness from other services.

Working group members, however, urged OVW to take steps to extend Tribal Governments Program funds to more tribes and to enhance stability and sustainability for existing tribal programs. Some members recognized that it might be necessary to lower award totals and/or limit awards to every three years in order to reach more tribes. Another member recommended OVW provide tribes with technical assistance so that they can successfully compete for funding from other OVW programs. Several members urged OVW to work to bring all federal partners to the table to discuss tribal funding, and others emphasized the importance of providing notice to tribes when funding levels are likely to change.

Administration of the Tribal Governments Program

At this juncture, after considering the views of tribal leaders, advocates, and the working group, and in the absence of any tribal consensus for change, OVW will continue to administer the Tribal Governments Program on a competitive, discretionary basis. OVW plans, however, to undertake steps that will advance several of the underlying goals of the formula proposal: sustainable, stable funding for as many tribes as possible coupled with support for comprehensive victim services programs. To this end, and informed by tribal recommendations, OVW plans to do the following:

- Explore providing tribes with technical assistance to help tribes successfully compete for funding from other OVW programs.
- Defer new Tribal Governments Program awards to tribes that have large outstanding balances on existing awards. If sufficient funding exists to continue grant-funded



activities until the next funding cycle, OVW likely will not make an award so that funding can extend to more tribes.

- Give priority to tribes that have not received Tribal Governments Program funding in two most recent fiscal years.
- Adjust maximum available award under Tribal Governments Program to ensure available funds can reach more tribes.
- Issue three-year awards under the Tribal Governments Program rather than two-year ones.
- Provide greatest possible notice to tribes each fiscal year of OVW plans for the Tribal Governments Program so that tribes may plan in advance for funding changes.

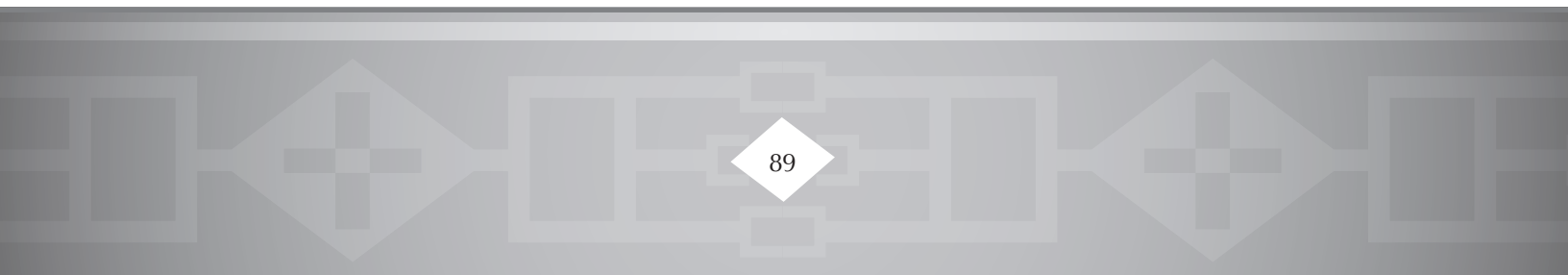
Conclusion

OVW's leadership deeply appreciates the willingness of many tribal leaders and advocates to engage with OVW regarding this important and complex issue. OVW initiated this conversation to respond to past testimony from tribal leaders at VAWA Tribal Consultations that indicated a formula distribution might be superior to a discretionary one. Throughout this process, OVW's goal has been to obtain tribal input on how best to administer the Tribal Governments Program rather than to reach a particular outcome. This consultation process has persuaded OVW that a change to formula distribution of the Tribal Governments Program is not appropriate at this time.



APPENDIX 5:
CONSULTATION FRAMING PAPERS

Working Together to End the Violence



Consultation Question: Should OVW fund a Training and Technical Assistance Provider to work with Tribal Law Enforcement and Tribal Courts to increase the number of tribal court protection orders entered into the NCIC POF and also to work with state and local officials to ensure that such agencies entering tribal protection orders into the NCIC POF are properly coding the orders so that they are identified in the NCIC POF as a tribal order?

Consultation Question: Should OVW fund a Training and Technical Assistance provider to develop an operational plan and program guidance for development and maintenance of a public sex offender registry for tribes? Should OVW fund this Training and Technical Assistance provider to do strategic planning with tribes interested in submitting offender information to the VAWA 2005 Section 905(b) Tribal Sex Offender Registry? Should the VAWA 2005 Section 905(b) Tribal Sex Offender Registry be limited to tribes that are not maintaining or implementing sex offender registries pursuant to SORNA?

The Violence Against Women Act of 2005 (VAWA 2005), Section 905(b), provided for the creation of a tribal registry or registries. Specifically, VAWA 2005 said that “[t]he Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—(A) a national tribal sex offender registry; and (B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.” VAWA 2005 authorized \$1,000,000.00 for each of fiscal years 2007 to 2011 to be appropriated to carry out this provision.

Project History:

OVW hosted a focus group on developing the registries in September of 2008. During this meeting, OVW heard from representatives from tribal law enforcement, the Federal Bureau of Investigation (FBI), federal prosecutors, and others with expertise in the area of criminal justice information-sharing. OVW has also engaged in discussions with the DOJ’s SMART Office to discuss how this provision intersects with that Office’s work to implement the Adam Walsh Act. Due to limited funding, OVW announced in 2011 that it would implement the databases sequentially and would develop the National Tribal Order of Protection Registry first.

On October 1, 2012, OVW issued a Call for Concept Papers seeking applicants to develop and maintain a national tribal protection order registry. The Call for Concept Paper indicated that applicants could request up to \$2.5 million to implement their proposed project. Of the approximately \$3.9 million that Congress has appropriated since FY 2008 for development of the tribal registries, OVW reserved approximately \$1.4 million for future development of the national tribal sex offender registry. OVW received two applications via Grants.gov, which were both peer reviewed. The consensus among the reviewers was that both proposals lacked partners

who could ensure the project's success, including access to the NCIC. Consequently, neither application was recommended for funding.

Because most of the effort to date concerning implementation of Section 905(b) concerns the tribal protection order registry, this framing document starts with it.

VAWA 2005 SECTION 905(b) TRIBAL PROTECTION ORDER REGISTRY

Basic Description of How NCIC Operates

The information in this section of the framing paper is drawn from the following FBI webpage: <http://www.fbi.gov/about-us/cjis/ncic>.

The National Crime Information Center (NCIC) is a voluntary system launched in 1967. The NCIC database currently consists of 21 files. There are seven property files containing records of stolen articles, boats, guns, license plates, parts, securities, and vehicles. There are fourteen persons files, including the National Sex Offender Registry (NSOR) and the National Protection Order File. By the end of FY 2011, NCIC contained almost 12 million active records, including tribal court orders.

Criminal justice agencies enter records into NCIC that are accessible to law enforcement agencies nationwide. For example, a law enforcement officer can search NCIC during a traffic stop to determine if the driver is wanted by law enforcement. The system responds instantly. If a search of NCIC records shows that an individual is wanted on an outstanding warrant, NCIC policy requires the inquiring agency to make contact with the entering agency to verify the information is accurate and up-to-date.

NCIC is operated under an agreement between the FBI's Criminal Justice Information Services Division (CJIS) and federal, state, local and tribal criminal justice users. CJIS provides a host computer and telecommunication lines to a single point of contact in each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and Canada. Those jurisdictions, in turn, operate their own computer systems, providing access to local criminal justice agencies. The entry, modification, and removal of records are the responsibility of the agency that entered them. The CJIS Division serves as the custodian of NCIC records.

The head of the CJIS Systems Agency - the criminal justice agency that has overall responsibility for the administration and usage of NCIC within a district, state, territory, or federal agency – appoints a CJIS systems officer (CSO) from its agency. The CSO is responsible for monitoring system use, enforcing system discipline and security, and ensuring that all users follow operating procedures. NCIC policy establishes a number of security measures to ensure the privacy and integrity of the data. The information passing through the network is encrypted to prevent unauthorized access. Each user of the system is authenticated to ensure proper levels of access for every transaction. To further ascertain and verify the accuracy

and integrity of the data, each agency must periodically validate its records. Agencies must also undergo periodic audits to ensure data quality and adherence to all security provisions.

Tribes and Federal Criminal Database Access

Tribal leaders have long told Department leadership about numerous difficulties and obstacles to tribal police and tribal courts having access to federal criminal databases. Congress has attempted several times to make it easier for tribes to be able to both query and submit information to these important databases. Section 905(a) of VAWA 2005 required the Attorney General to permit Indian law enforcement agencies, in cases of domestic violence, stalking, sexual assault and dating violence, to enter information into Federal criminal information databases and to obtain information from the databases. This same statute, 28 U.S.C. § 534, was amended again with the passage of the Tribal Law and Order Act of 2010. The statute now states that “the Attorney General shall permit tribal and Bureau of Indian Affairs law enforcement agencies (1) to access and enter information in to Federal criminal information databases; and (2) to obtain information from the databases.” Access to these databases is no longer premised on the offense being a crime of domestic violence, stalking, sexual assault or dating violence. “National crime information databases” is defined as the National Crime Information Center (NCIC) and its incorporated criminal history databases, including the Interstate Identification Index. See 28 U.S.C. § 534(3)(A).

The FBI’s CJIS Division permits individual states access to NCIC, and it enters into a user agreement with every state outlining the terms and conditions of that state’s access to NCIC. Each state, in turn, has their own state-level CJIS that dictates policy and access to NCIC at the state level. Some states have laws or policies which, in effect, prohibit or limit tribes’ access to NCIC. In addition, equipment and training needs associated with access to these databases has proven cost prohibitive for some tribes. And, in some jurisdictions, the tribes provide records, like protection orders, to county or state officials to enter into federal criminal databases. However, if the county or state does not use the proper codes, the order will not show up in the system as a tribal order.

The Department has been working assiduously the past several years to assist tribes that are interested in securing greater access to federal criminal databases. In April 2009, the Attorney General discovered that a number of tribal law enforcement agencies did not have access to NCIC. This led to a pilot project where approximately twenty tribes were provided direct NCIC access via the Department’s Justice Telecommunications System (JUST). JUST provides Department headquarters, field offices, and other Federal agencies, with accessibility to sensitive information stored in various law enforcement databases. This pilot project is funded by DOJ’s Community Oriented Policing Services Office (COPS). While the Department realizes that this pilot project has not solved the issue for all tribes, it is one step in what we hope will be a comprehensive solution.

The Department has also witnessed tribes submitting records to federal criminal databases with increasing frequency in a number of different areas. For example, The Department through the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) continues to provide support to tribal jurisdictions that have opted to implement SORNA. Of the approximately 160 eligible tribes, 71 have been found to have substantially implemented SORNA and the rest working towards substantial implementation. And, the SMART Office continues to work with Tribes, States, local and Federal partners in order to facilitate the submission of offender information into NCIC/NSOR. The SMART Office has also worked with a contractor to develop the Tribal and Territory Sex Offender Registry System (TTSORS). This system allows tribes to set up a SORNA compliant public website and public notification system at no cost to them. Currently, over 100 tribes have utilized TTSORS to set up public sex offender websites linked to the National Sex Offender Public Website (NSOPW) which is administered by SMART. In addition, since 2009, the FBI's Uniform Crime Reporting (UCR) Program Office has coordinated with the Bureau of Indian Affairs and the Justice Department's Office of Justice Programs to increase the number of tribes that qualify for Justice Assistance Grants (JAG) eligibility based on the submission of UCR crime data.

Regardless of the development of the VAWA Section 905(b) registries, it is critically important that a tribe desiring to submit records of conviction to federal criminal databases, particularly for domestic abuse and sexual assaults, be able to do so without impediments. Information contained in federal criminal databases, like NCIC, is widely reviewed by federal, state, local and tribal criminal justice professionals across the country. Access to information in federal criminal databases is vitally important not only to victim and community safety, but also to officers responding to a call for service.

NCIC Protection Order File

As stated above, a national protection order registry already exists within NCIC. The NCIC Protection Order File (NCIC POF) was developed to serve as the national registry for protection orders issued in state and tribal courts. The NCIC POF is a voluntary system and is designed to facilitate the enforcement of protection orders and federal firearm laws. The ability of law enforcement to confirm the existence of a protection order in the NCIC POF takes on added importance when a protected party requests enforcement of an order issued by a foreign jurisdiction and she/he does not have a copy of the order in her/his possession. In addition, the NCIC POF is one of the files searched when a background check is requested of the National Instant Criminal Background Check System (NICS) prior to the transfer of a firearm to a potential firearm buyer.

Some tribes have the ability to enter protection orders directly into NCIC and some tribes have executed agreements or memoranda of understanding (MOUs) for the state to enter the orders on behalf of the tribe. Orders issued by state courts or tribal courts in tribes that enter the orders directly into NCIC should be entered into the NCIC POF within 24 hours after issuance by the court (or sooner, if required by State law or agency policy/procedures). State jurisdictions that

have MOUs with a tribal jurisdiction to enter tribal orders into the NCIC POF should enter tribal orders into the NCIC POF within 24 hours of receipt at the entering agency specified in the agreement or MOU. Delays in the entry of protection orders into the system present risks to the petitioner and other protected parties.

What type of protection order registry does VAWA 2005 Section 905(b) require be developed?

VAWA 2005 is silent on whether Congress intended for the Section 905(b) tribal protection order registry to be law enforcement sensitive or accessible to all interested citizens. A different section of federal law, however, makes clear that protection order information that reveals the identity or location of a protected party cannot be posted on the Internet. Section 2265(d)(3) of Title 18 provides that “[a] State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction [sic] in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.” Therefore, any registry developed pursuant to VAWA 2005 cannot be publicly accessible on the Internet.

Who can access NCIC?

To qualify for access to criminal history record information, a requesting entity must be authorized access to the NCIC pursuant to 28 U.S.C. § 534, which provides that the exchange of criminal history and similar records shall be “with, and for the official use of, authorized officials of the Federal government, . . . the States, . . . Indian tribes, cities, and penal and other institutions.” The United States Department of Justice and federal courts have interpreted this language to restrict access to such criminal history records to **criminal justice agencies for criminal justice purposes** and to federal agencies authorized to receive them pursuant to a federal statute or executive order. Title 28, Code of Federal Regulations, section 20.3(g) defines a criminal justice agency as “(1) courts; and (2) a governmental agency or any subunit thereof that performs the administration of criminal justice pursuant to a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice.”

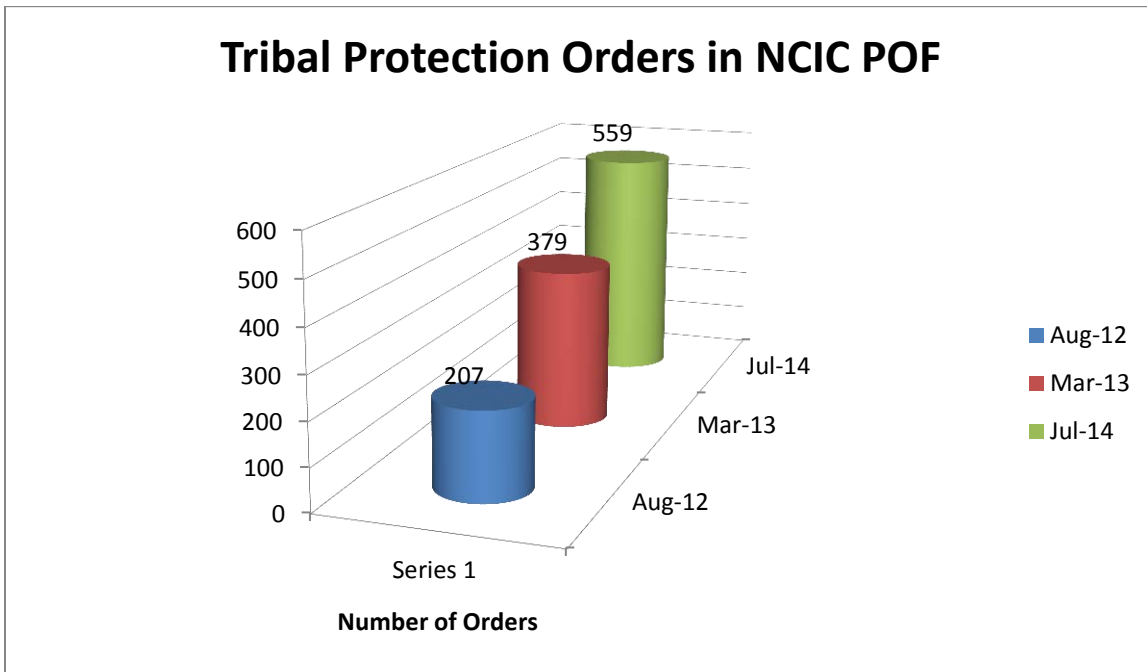
Therefore, all tribal nonprofit organizations and most tribal organizations – except those meeting the definition of a criminal justice agency - cannot be authorized to have NCIC access. A tribal police department on the same reservation as a tribal organization or tribal nonprofit organization applying to develop the tribal protection order registry may have NCIC access, but it would constitute a violation of NCIC rules and regulations for the tribal law enforcement agency to share information learned from a NCIC search with a non-criminal justice agency.

* * *

So, while Section 905(b) provides that the Attorney General “shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization” to develop the tribal protection order registry, the legal reality is that unless these entities fit within the definition of criminal justice agency they will be prohibited from accessing NCIC and submitting tribal court protection orders to the NCIC POF. Furthermore, federal law precludes posting publicly on the Internet information included in a protection order that will identify the victim or her location. Thus, these two aspects of federal law and relevant federal regulations have proven a challenge for implementation of the tribal protection order registry authorized by Section 905(b).

An Alternative for Tribal Leaders to Consider:

In the past year, OVW has discussed with tribal leaders the existence of the NCIC POF. Some tribal leaders have asked OVW if the tribal protection order registry called for in Section 905(b) replicates what is already available in the NCIC POF. The short answer is yes. However, this fact also raises the issue of the number of tribes currently entering protection orders into the NCIC POF. Therefore, during FY 14, OVW, working in concert with a number of Department components, researched the number of tribal police departments and tribal courts submitting orders of protection into the NCIC POF. The number of tribal protection orders has steadily increased from a total of 207 protection orders entered as of August 2012 to 559 protection orders on file as of July 2014. (See table below.) We credit this increase to training and outreach efforts led by OVW and the National Indian Country Training Initiative.



Protection orders entered into the NCIC POF are reviewable by all criminal justice agencies (police, prosecutors and courts) with NCIC access. Given tribes’ increasing use of the NCIC

POF, should OVW - instead of funding a tribal-specific protection order registry - use a portion of the Section 905(b) money to support a Training and Technical Assistance Provider to work with Tribal Law Enforcement and Tribal Courts to increase the number of tribal court protection orders entered into the NCIC POF and also to work with state and local officials to ensure that such agencies entering tribal protection orders into the NCIC POF are properly coding the orders so that they are identified in the NCIC POF as a tribal order?

VAWA 2005 SECTION 905(b) TRIBAL SEX OFFENDER REGISTRY

VAWA 2005 was signed into law the first week of January 2006. Six months later the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248) was enacted. Title I of the Adam Walsh Act is the Sex Offender Registration and Notification Act commonly referred to as SORNA. SORNA provides a comprehensive set of minimum standards for sex offender registration and notification in the United States. SORNA aims to close potential gaps and loopholes that existed under prior law and generally strengthens the nationwide network of sex offender registration and notification programs. Additionally, SORNA:

- Extends the jurisdictions in which registration is required beyond the 50 states, the District of Columbia, and the principal U.S. territories, to include federally recognized Indian tribes.
- Incorporates a more comprehensive group of sex offenders and sex offenses for which registration is required.
- Requires registered sex offenders to register and keep their registration current in each jurisdiction in which they reside, work, or go to school.
- Requires sex offenders to provide more extensive registration information.
- Requires sex offenders to make periodic in-person appearances to verify and update their registration information.
- Expands the amount of information available to the public regarding registered sex offenders.
- Makes changes in the required minimum duration of registration for sex offenders.
- Includes tribal convictions as registerable offenses.
- Created the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) to administer the SORNA standards and provide resources, training and technical assistance to the jurisdictions et al.
- Requires jurisdictions to collect and submit information to Federal databases and share information with law enforcement and the public.
- Enacts penalties for all jurisdictions for failure to meet the SORNA standards in a timely fashion.
- Provides legal authority for collection and posting of sex offender data.

Section 127 of SORNA (42 U.S.C. § 16927) provided that certain tribes could elect to function as a sex offender registry jurisdiction subject to meeting all the requirements imposed by

SORNA. Currently, over 160 tribes are working with DOJ's SMART Office to implement SORNA. However, Section 127 exempted all mandatory Public Law 280 tribes and provided that in those jurisdictions all sex offender registry responsibilities are automatically delegated to the state.

The final SORNA guidelines are extensive and were published in the Federal Register on July 2, 2008 and can be found at http://ojp.gov/smart/pdfs/fr_2008_07_02.pdf

In contrast to the detailed provisions of SORNA and its implementing guidelines, the statute creating the Section 905(b) sex offender registry includes no guidance or criteria for important issues like the following:

- A list of registerable offenses
- The length of time an offender remains on the tribal registry
- A designation of who has responsibility for correcting any errors on the registry
- The level of information to be publically available
- The inclusion of juvenile offenders
- Penalties for failing to register
- Victim protections
- A designated agency to administer the standards
- Legal authority

Without adequate and appropriate registry guidelines, sex offenders' due process protections, and possibly their personal safety, may be compromised. Moreover, without sufficient guidelines for development of the registry and use of the registry, victims of sexual assault crimes may be further harmed should their identities be inadvertently publicly published.

An Alternative for Tribal Leaders to Consider:

Given the lack of criteria to guide implementation of Section 905(b)'s national tribal sex offender registry, should OVW fund a Training and Technical Assistance provider to develop an operational plan and program guidance for development and maintenance of the VAWA 2005 Section 905(b) Tribal Sex Offender Registry? Should OVW fund this Training and Technical Assistance provider to engage in strategic planning with tribes interested in submitting offender information to a stand-alone tribal sex offender registry? Should the VAWA 2005 Section 905(b) Tribal Sex Offender Registry be limited to tribes that are not maintaining or implementing sex offender registries pursuant to SORNA?





Consultation Question: How should states recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund culturally specific services and activities for underserved populations are distributed equitably among those populations?

Consultation Question: What does it mean for a state to consult with tribes? This includes both whom they should include and how.

Background:

The Services, Training, Officers, Prosecutors (STOP) Violence Against Women Formula Grant Program provides funding to states based on population to improve their criminal justice response and develop and strengthen victim services in cases involving violent crimes against women. Although tribes are not directly eligible for the funding, they can be provided funds through a state as a subgrantee. The program has 20 enumerated purpose areas within the broad purpose stated above and requires that funds be allocated 30% for victim services, 25% for prosecution, 25% for law enforcement, and 5% to courts. Within the victim services allocation, 10% is allocated to culturally specific community-based organizations, including tribal organizations.

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) made numerous significant changes to the STOP statute, two of which may be significant to tribes. First, VAWA 2013 expanded the specified list of entities with which states must consult in deciding how to implement the program; this list now includes tribal governments. Second, VAWA 2013 amended the formula on which STOP funding is based so that tribal populations are included in each state's population.

In December 2013, OVW held a listening session (via telephone and Internet) with tribes, tribal coalitions, and tribal organizations to seek input on the implementation of the VAWA 2013 changes to the STOP Program. Subsequently, OVW issued Frequently Asked Questions (FAQs) specifying that, for states to comply with the consultation requirement regarding tribes, all state and federally recognized tribes must be invited to the table. The FAQs explained that this could be accomplished through a written comment process, conference calls or on-line meetings, or in-person meetings.

OVW is interested in hearing from tribes regarding (1) whether and how their state STOP administering agencies consulted with them during fiscal year 2014; (2) how states might better consult with tribes during their state's STOP Program implementation planning, and (3) how states should include tribes in "equitable" distribution of funds for underserved populations and culturally specific services.



U.S. Department of Justice

Tribal Law and Order Act of 2010 and Bureau of Prisons Pilot Program

Framing Paper

September 2014



Issue: The time period for the TLOA BOP Pilot Program providing for the incarceration in a BOP facility of certain tribal offenders sentenced in tribal court ends on November 29, 2014.

Consultation Questions:

- 1) **Would your tribe support legislation extending the BOP tribal prisoner program?**
- 2) **Should the current project be extended as a pilot project, or should it be instituted as a permanent project?**

Background:

The Tribal Law and Order Act of 2010, P.L. 111-211 (TLOA, or the Act) was signed into law by the President on July 29, 2010. Section 234(c) of the Act required the Director of the Bureau of Prisons (BOP) to establish a four-year pilot program to accept in to BOP institutions certain tribal offenders convicted in tribal courts for committing violent crimes. Per TLOA, the maximum number of tribal offenders in the pilot program at any time was 100. In accordance with the requirement to establish the pilot program within 120 days after the Act's enactment, the program was implemented on November 29, 2010.

Since implementation of the BOP pilot program, tribes have submitted requests for five tribal offenders to be confined in BOP facilities. The BOP accepted all five offenders with the federal government assuming the financial burden of housing and caring for the prisoners. The chart below provides a description of each pilot participant.

Inmate	Tribe	Charge	Sentencing Information	Bureau Facility
1	Confederated Tribes of the Umatilla Reservation	Felony Assault and Felony Conspiracy to Commit an Assault	Sentence Imposed: 2 years and 3 months Release Date: 4/3/2015	Federal Correctional Institution (FCI) Herlong
2	Confederated Tribes of the Umatilla Reservation	Assault	Sentence Imposed: 2 years and 2 months Release Date: 2/13/2015	FCI Sheridan
3	Eastern Band of Cherokee Nation	DWI; DWLR; Assault on a Female; Injuring Public Property; and Failure to Obey a Lawful Order of the Court	Sentence Imposed: 4 years Release Date: 11/16/2016	United States Penitentiary McCreary
4	Eastern Band of Cherokee Nation	Assault Inflicting Serious Bodily Injury and Assault with a Deadly Weapon	Sentence Imposed: 3 years Release Date: 5/3/2016	FCI Butner II
5	Tulalip Tribes	Sexual Abuse of a Minor	Sentence Imposed: 3 years Release Date: 11/18/2016	FCI Sheridan

Section 234(c)(6) of TLOA requires the pilot program to expire four years after its establishment, unless otherwise provided by an Act of Congress. Absent the passage of legislation extending the pilot program, the BOP will be unable to accept additional tribal prisoners into the program after November 29, 2014. However, BOP will continue to house those prisoners previously accepted into the program for the balance of their term of imprisonment.

U.S. DEPARTMENT OF JUSTICE
OFFICE ON VIOLENCE AGAINST WOMEN

2014 Tribal Consultation

REPORT





United States Department of Justice

Office on Violence Against Women

Working Together to End the Violence

**2015 Update on the Status of
Tribal Consultation Recommendations**

prepared for

Department of Justice Annual Government-to-Government

Violence Against Women Tribal Consultation

Little Creek Resort

Shelton, WA

November 4, 2015

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Introduction

On October 15, 2014, the Department of Justice (DOJ) hosted its ninth annual government-to-government consultation on violence against American Indian and Alaska Native women. This annual consultation, first required by the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005)¹ and first held in 2006, is to address the federal administration of tribal funds and programs established under the Violence Against Women Act of 1994² and its subsequent reauthorizations. DOJ received recommendations from tribal leaders on the three consultation topics statutorily-mandated by VAWA 2005, as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA 2013):³

- Administering tribal funds and programs;
- Enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, stalking, and sex trafficking; and
- Strengthening the federal response to such crimes.

In addition, DOJ asked tribal leaders for input on several specific questions related to improving our support of tribal government efforts to combat violence against women (these questions are included as a part of the consultation agenda in Appendix A).

The purpose of this follow-up report is to provide tribal leaders with a comprehensive update on activities undertaken by DOJ in the past year to respond to the recommendations made by tribal leaders at last year's consultation session. This report includes three sections: 1) information on actions taken in response to certain specific recommendations made at the 2014 consultation; 2) a review of progress made on implementation of tribal provisions included in VAWA; and 3) an update on other DOJ activities related to violence against Native women. This report is meant to be a companion to the report summarizing the proceedings of the 2014 consultation, which is available at www.justice.gov/ovw/tribal-consultation.

¹ Pub. L. No. 109-162, 119 Stat. 2960 (2006).

² Pub. L. No. 103-322, 108 Stat. 1902 (1994).

³ Pub. L. No. 113-4, 127 Stat. 54 (2013).

Part One: Responses to Selected 2014 Recommendations

All three parts of this report contain information on DOJ responses to recommendations from tribal leaders at the 2014 Consultation; however, this part addresses recommendations made by tribal leaders in four specific areas: 1) tribal access to federal crime information databases and efforts to establish national tribal protection order and sex offender registries; 2) several issues related to the civil and criminal jurisdiction of Alaska Native villages, including the enforcement of tribal protection orders by state and local law enforcement in Alaska; 3) extension of a Bureau of Prisons (BOP) pilot project to house in BOP institutions certain offenders convicted in tribal courts of violent offenses; and 4) efforts to improve states' consultation with tribes on implementing the STOP Violence Against Women Formula Grant Program. Information on responses to other recommendations related to the implementation of VAWA 2005 and 2013, as well as strengthening the federal response to violence against Native women, can be found in parts two and three of this report.

Tribal Access to Federal Crime Information Databases and National Tribal Registries

In preparation for the 2014 consultation, DOJ provided to tribal leaders two consultation questions and a framing paper addressing implementation of the VAWA 2005 provisions on tribal access to federal crime information databases and establishment of national tribal protection order and sex offender registries. Although VAWA 2005 and the Tribal Law and Order Act of 2010 (TLOA) require the Attorney General to ensure that tribal law enforcement officials who meet applicable federal or state requirements be permitted access to national crime information databases, the reality is that the ability of tribes to fully participate in national criminal justice information sharing via state networks depends upon various regulations, statutes, and policies of the states in which a tribe's land is located. As a result, DOJ has repeatedly heard from tribes at the 2014 consultation and at prior consultations that they face barriers to accessing and entering information into national crime information databases, which jeopardizes their ability to protect their communities and prevent domestic and sexual violence.

In 2010, DOJ instituted two pilot projects to improve access for tribes to Criminal Justice Information Services Division (CJIS) services, including the National Crime Information Center (NCIC) and the Integrated Automated Fingerprint Identification System (IAFIS, now the Next Generation Identification (NGI) System). The biographic pilot, using DOJ's Justice Telecommunications System (JUST), continues to serve more than 20 tribal law enforcement agencies. JUST is also used by DOJ headquarters and field offices, as well as other federal agencies. The biometric pilot provided a few tribes with fingerprint booking stations for submitting information to IAFIS/NGI. In 2014, DOJ and the Department of the Interior (DOI) formed a working group to assess the impact of the pilots and identify long-term sustainable solutions that address both criminal and civil needs of tribes. The outcome of this collaboration was DOJ's Tribal Access Program for National Crime Information (TAP), as well as an additional program established by the DOI's Bureau of Indian Affairs (BIA), the Purpose Code X Program, which provides tribes with national crime information prior to making child placement decisions in emergency circumstances. Both programs were announced on August 19, 2015 at the DOJ/CJIS Tribal Conference in Tulsa, Oklahoma:

- **DOJ's TAP** will support tribes in analyzing their needs for national crime information and help provide appropriate solutions, including a state-of-the-art biometric/biographic computer workstation with capabilities to process finger and palm prints, take mugshots and submit records to national databases, as well as the ability to access CJIS systems for criminal and civil purposes through DOJ. TAP will also provide specialized training and assistance for participating tribes. In the initial phase of TAP, the biometric/biographic workstations will be deployed to up to 10 federally-recognized tribes that will provide user feedback. This phase will focus on assisting tribes that have law enforcement agencies, while in the future DOJ will seek to address needs of the remaining tribes and find a long-term solution. DOJ will continue to work with Congress for additional funding to more broadly deploy the program.
- **BIA's Purpose Code X Program** will enable social service agencies of federally recognized tribes to view criminal history information accessed through BIA's Office of Justice Services, which will conduct name-based checks in situations where parents are unable to care for their children. The Office of Justice Services obtained authorization to perform name-based criminal background checks from the National Crime Prevention and Privacy Compact Council, an organization which has the legal authority to promulgate rules and procedures governing the exchange of criminal records for non-criminal justice purposes. Under the Purpose Code X Program, Office of Justice Services dispatch centers will be available to provide 24-hour access to criminal history records, so that name-based checks can be done immediately. The primary goal of the program is to provide social service agencies with the information they need to protect the children they place into care in emergency situations.

For more information on both programs, see <http://www.justice.gov/tribal/tribal-access-program-tap>. A fact sheet on TAP is also available in Appendix E.

VAWA 2005 also authorizes the establishment of a national tribal sex offender registry and a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions. Although Congress has appropriated approximately \$3.9 million to date for development of the tribal registries, DOJ has not been able to award these funds because the applications received lacked partners who could ensure the project's success, including access to NCIC. The President's Budget for Fiscal Year (FY) 2016 includes a proposal to make the approximately \$3.9 million in registry funds available to enhance the ability of tribal government entities to access, enter information into, and obtain information from federal crime information databases, as authorized by VAWA and TLOA. This decision was made in response to tribal leaders' testimony at prior consultations. At the two most recent consultations, DOJ provided consultation questions addressing how to reallocate the registry funds to achieve the goals of creating tribal registries and included detailed framing papers discussing the relationship between tribal access to federal crime information databases and the intended purpose of the tribal registry funds. The tribal leaders who responded to these questions consistently expressed support for repurposing the funds to implement a process that gives all tribes entry and retrieval access to existing databases. TAP did not exist at the time, but tribal leaders expressed support for a solution that does not require tribes to go through the states for this access, which TAP offers. Tribal leaders also stated that facilitating tribal access to federal

databases would be better than creating separate tribal registries for protection orders and sex offenders. If the authority requested in the President's Budget were included in DOJ's FY 2016 appropriation as enacted, these funds could be used to support both the JUST pilot and the transition from the JUST pilot to DOJ's TAP.

Improving tribal access to NCIC also will achieve the goals of creating a national tribal protection order registry because a national registry already exists within NCIC. The NCIC Protection Order File (NCIC POF) was developed to serve as the national registry for protection orders issued in state and tribal courts. The NCIC POF is a voluntary system and is designed to facilitate the enforcement of protection orders and federal firearm laws. For example, individuals with a valid protection order issued against them are prohibited from purchasing firearms or ammunition for the life of the protection order. The number of tribal protection orders in the NCIC POF has increased steadily from a total of 207 protection orders entered as of August 2012 to 643 protection orders on file as of October 1, 2015. DOJ training and outreach efforts to raise awareness of the NCIC POF among tribal leaders and criminal justice professionals have stressed the critical need to collect and share data on tribal orders.

Civil and Criminal Jurisdiction of Alaska Native Villages

VAWA 2013 clarified the reach of tribal civil jurisdiction to issue and enforce protection orders, and contained an historic Congressional recognition of tribal criminal jurisdiction over domestic violence offenders. Section 910 of VAWA 2013, however, stated that these provisions "shall only apply to the Indian country (as defined in section 1151 of title 18, United States Code) of the Metlakatla Indian Community, Annette Island Reserve." At the 2014 consultation and during the subsequent comment period, tribal leaders called for the repeal of Section 910 of VAWA 2013 because it prevented all but one of the 229 Alaska Native villages from ever exercising the special domestic violence criminal jurisdiction that the law restored to other tribes and created confusion regarding tribal jurisdiction in Alaska. DOJ supported such a repeal, and then-Associate Attorney General Tony West publicly stated in June 2014 that doing so would send a very clear signal that "tribal authority is an important component to helping to protect Native women and Native children from violence." Senators Mark Begich and Lisa Murkowski of Alaska cosponsored the Alaska Safe Families and Villages Act of 2014 to repeal Section 910, which the President signed into law on December 18, 2014.⁴

In addition to the repeal of Section 910 of VAWA 2013, several tribal leaders commented on the importance of enabling the Department of the Interior to take land into trust for tribes in Alaska. They noted that doing so would help Alaska Native villages exercise the special domestic violence criminal jurisdiction recognized in VAWA 2013. This jurisdiction applies to certain non-Indians who commit domestic and dating violence against Native women in Indian country, but "Indian country" is a legal term that has been interpreted to exclude almost all Alaska Native villages. Taking land into trust for tribes in Alaska would expand the amount of tribal lands in Alaska that constitute Indian country, which would enhance the ability of Alaska tribes to exercise the special domestic violence criminal jurisdiction recognized in VAWA 2013. After

⁴ Pub. L. No. 113-275, 128 Stat. 2988 (2014).

the 2014 consultation, in December 2014, the Department of the Interior published a final rule that allows it to accept land into trust for all federally recognized Alaska Native tribes.⁵

Although VAWA 2013 also reaffirmed the civil jurisdiction of tribes to issue and enforce protection orders, several tribal leaders at the 2014 consultation reported that law enforcement in Alaska would not enforce tribal court protection orders that had not been registered with the Alaska court system in accordance with Alaska law. In July 2014, then-Associate Attorney General Tony West sent a letter to the Attorney General of Alaska stating that this practice is inconsistent with federal law, which requires enforcement of a tribal court protection order regardless of whether the order previously was filed or registered in a state court. The letter further offered that DOJ could provide Alaska-focused, Alaska-based training to bring Alaska law enforcement's approach to the enforcement of tribal court protection orders into compliance with federal law. In July 2015, the Alaska Attorney General published a formal Attorney General Opinion concluding that federal law preempts the state registration law and that local and state law enforcement can and must enforce tribal protection orders as if those orders were issued by the state, if the orders meet the criteria outlined in federal law.⁶ The press release announcing the opinion quoted the Alaska Attorney General as stating that there should be no doubt "that these protection orders must be enforced."

Bureau of Prisons Pilot Program Under the Tribal Law and Order Act of 2010

The Tribal Law and Order Act of 2010 (TLOA) required the Bureau of Prisons (BOP) to establish a four-year pilot program to accept into BOP institutions certain tribal offenders convicted in tribal courts for committing violent crimes. Section 234(c)(6) of TLOA requires the pilot program to expire four years after its establishment unless otherwise provided by an Act of Congress. The pilot program ended on November 29, 2014, without being extended or made permanent. However, BOP has continued to house those prisoners previously accepted into the program for the balance of their terms of imprisonment. At the 2014 Consultation, DOJ solicited comments from tribes whether the program should be extended or made permanent, and several tribal leaders testified in favor of making the program permanent. DOJ would support legislation to do so, but, to date, Congress has not taken any action.

State Consultation with Tribes Under the STOP Violence Against Women Formula Program

VAWA 2013 expanded the specified list of entities with which states must consult in deciding how to implement the Service, Training, Officers, Prosecutors (STOP) Violence Against Women Formula Grant Program to include tribal governments. After holding a listening session with tribes, tribal coalitions, and tribal organizations on the implementation of VAWA 2013, the Office on Violence Against Women (OVW) issued Frequently Asked Questions (FAQs) specifying that, for states to comply with the consultation requirement regarding tribes, all state and federally recognized tribes must be invited to the table. The FAQs explain that this can be

⁵ Land Acquisitions in the State of Alaska, 79 Fed. Reg. 76,888 (Dec. 23, 2014) (codified at 25 C.F.R. pt. 151).

⁶ Letter from Attorney General Craig W. Richards to Commissioner Gary Folger dated July 30, 2015, *available at* http://law.alaska.gov/pdf/opinions/opinions_2015/15-005_AN2013102606.pdf.

accomplished through a written comment process, conference calls, on-line meetings, or in-person meetings. At the 2014 Consultation, OVW solicited comments from the tribes regarding (1) whether and how their state STOP administering agencies consulted with them during FY 2014 and (2) how states might better consult with tribes during their state's STOP Program implementation planning.

Although OVW received limited feedback on these consultation questions, some tribal leaders did testify that either states had not consulted with them or the state consultation had been inadequate. Since the 2014 Consultation, OVW has taken several steps to address these concerns. First, OVW revised the checklist for state STOP implementation plans to make it clear that states are to consult with all state and federally recognized tribes in their state. Second, the meeting of state STOP Administrators held in April 2015 included a plenary panel on consulting and collaborating with tribes. Representatives from states and tribes presented together on their collaborative efforts, lessons learned, and best practices. Finally, OVW has identified this as an important area for technical assistance and is soliciting proposals for the OVW Technical Assistance Program to provide training and technical assistance to STOP Administrators on effective and culturally appropriate consultation and coordination with tribes during the STOP implementation planning process. In the interim, OVW has been working with the existing technical assistance provider for the STOP Program to follow-up with states where complaints have been raised about a lack of consultation with tribes.

Part Two: Implementation of the Tribal Provisions in VAWA

The reauthorizations of VAWA in 2005 and 2013 included a number of provisions specifically aimed at ending violence against American Indian and Alaska Native women. Title IX of both acts, titled “Safety for Indian Women,” honors the government-to-government relationship between the federal government and tribal governments and aims to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes against Indian women. At the 2014 consultation and at previous ones, many tribal leaders commented on the importance of full implementation of the tribal provisions in VAWA. In response to these comments, this section provides a summary of what DOJ has done to implement certain tribal provisions in VAWA 2005 and VAWA 2013.

Administering VAWA grant programs

VAWA authorizes three programs that are specifically designed for tribal communities:

- 1) Grants to Indian Tribal Governments Program (“Tribal Governments Program”);
- 2) Tribal Sexual Assault Services Program (“TSASP”); and
- 3) Tribal Coalitions Program.

The Tribal Governments Program is included as Purpose Area #5 in DOJ’s Coordinated Tribal Assistance Solicitation (“CTAS”), which also includes the tribal government-specific programs from DOJ’s Office of Justice Programs (OJP) and Community Oriented Policing Services (COPS) Office. Prior to implementation of CTAS, tribes seeking funding from multiple DOJ tribal grant programs were required to submit separate grant applications. With CTAS, tribes are able to submit a single application while selecting multiple purpose areas, ranging from juvenile justice to violence against women. OVW’s other two tribal programs, both of which include nonprofit organizations as eligible grantees, are not part of CTAS. An analysis of the funding levels for each of the three tribal-specific programs in FY 2015 is provided as Appendix B to this report.

Tribal Governments Program

The Tribal Governments Program, which was created by Section 906 of VAWA 2005 and amended by section 901 of VAWA 2013, provides funding to tribal governments or their designees to: 1) develop and enhance effective governmental strategies to curtail violent crimes against women; 2) increase tribal capacity to respond to domestic violence, dating violence, stalking, sexual assault, and sex trafficking crimes against Native women; 3) strengthen tribal justice interventions including tribal law enforcement, prosecution, courts, probation, and correctional facilities; 4) enhance services to Indian women who are victims; 5) develop prevention and education strategies; 6) provide supervised visitation services; 7) provide transitional housing and related support services to victims; 8) provide legal assistance to victims; 9) provide services to youth victims and children and youth exposed to these crimes; and 10) develop and promote legislation and policies to respond to violent crimes against Indian women.

OVW has issued a solicitation for the Tribal Governments Program each year since FY 2007 and began including it in CTAS in FY 2010. As in previous years, in FY 2015, new applicants to the Grants to Tribal Governments program were able to request up to \$450,000. Although there was no explicit limit on the amount of funding that current grantees could request, OVW offered guidance in the CTAS to current grantees that it might not be able to offer awards to them in excess of \$900,000 because of the anticipated demand for funding. These budget guidelines were first adopted in FY 2008.

In FY 2015, OVW received 84 applications for CTAS Purpose Area #5 requesting a total of \$54,589,035. There were 36 new applicants in FY 2015, and 48 applications were submitted by current grantees who were seeking funding to enhance or continue their existing OVW-funded projects. Of the 84 applications, 78 were from individual federally-recognized Indian tribes, three applications were from organizations or agencies acting as the authorized designee of a federally-recognized Indian tribe, and three applications were from tribal consortia.

All applications submitted for CTAS Purpose Area #5 funding in FY 2015 were sent to a panel of external peer reviewers and were also reviewed internally by OVW Program Specialists. During the internal review, OVW staff evaluated each application to determine whether the applications contained activities that might compromise victim safety, how well applicants for continuation funding had complied with the requirements of their current OVW grant awards, and whether they had an excess of funding remaining in their current awards. Each application sent to external peer review was evaluated and scored by a three-person panel composed of individuals with expertise in violence against women and the unique needs of tribal communities.

Based on the internal and external review of the applications, OVW made 52 awards through the Tribal Governments Program for FY 2015 for a total of \$30,819,547. Reasons that applications did not receive funding included low peer review scores, incomplete applications, duplication of activities, poor past performance, and excessive funds remaining from previous grants. A list of awards in the Tribal Governments Program for FY 2015 is included in Appendix C to this report.

TSASP

Section 202 of VAWA 2005 created the Sexual Assault Services Program (SASP), which encompasses five different funding streams, including a program specifically for tribal communities. By statute, 10 percent of the amount appropriated for SASP is directed towards the TSASP Grant Program. Overall, the purpose of SASP is to provide intervention, advocacy, accompaniment (e.g., accompanying victims to court, medical facilities, police departments, etc.), support services, and related assistance for adult, youth, and child victims of sexual assault, family and household members of victims, and those collaterally affected by the sexual assault. The goal of TSASP is to create, maintain, and expand sustainable sexual assault services provided by tribal governments and tribal organizations, which are uniquely situated to respond to the needs of American Indian and Alaska Native sexual assault victims. By statute, tribal governments, tribal organizations, and tribal non-profits are the only eligible entities for TSASP.

In response to the FY 2015 TSASP solicitation, OVW received 11 applications. Each application was reviewed for eligibility, completeness, assurance that proposed project activities fell within the scope of the TSASP statutory purpose area, and to identify any proposed activities that might compromise victim safety. Upon completion of the internal review, 11 applications were forwarded to peer review and evaluated by an external review panel. The panel was made up of three individuals with expertise in the area of sexual assault, victim advocacy, and serving tribal communities. Based on the internal and external review of the applications, OVW made nine awards through the TSASP for FY 2015 for a total of \$2,766,308. Reasons that applications did not receive funding included low peer review scores reflecting insufficient details on required elements, such as expertise working with tribal communities. A list of awards in TSASP for FY 2015 is included in Appendix C.

Tribal Coalitions Program

OVW's Tribal Coalitions Program provides funding to certain nonprofit organizations to effect social change and systemic reform related to ending violence against American Indian and Alaska Native women. Grant funds can be used to increase awareness of domestic violence and sexual assault; enhance the federal, state, and tribal response to violence against Indian women; provide technical assistance to coalition membership and tribal communities to enhance access to essential services for victims of domestic and sexual violence, including sex trafficking; and assist tribes in developing and promoting legislation and policies that enhance best practices for responding to violent crimes against American Indian and Alaska Native women. VAWA authorizes two funding streams for tribal coalitions. The first is a distribution of 1/56 of the STOP Violence Against Women Formula Program appropriation and five percent of the appropriation for the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program. The second is not less than one percent of the total appropriation for the Sexual Assault Services Program and is available only to those coalitions that are involved in sexual assault work. At least 90 percent of Tribal Coalitions Program funding is to be equally divided among recognized tribal coalitions.

For FY 2015, \$5,001,747 was available for distribution, and OVW has issued awards to 16 tribal coalitions. An additional two existing coalitions were eligible to apply but chose not to because they still had ample funding in their FY 2013 awards. FY 2015 Tribal Coalitions awards are included in Appendix C.

In addition to these three tribal programs, tribal governments are eligible to apply directly to a number of the other grant programs authorized by VAWA, and OVW continues to receive applications from tribes for those programs. OVW grant awards to tribes and tribal organizations from all OVW programs are listed in Appendix C.

Analysis and Research on Violence Against American Indian and Alaska Native Women

Section 904(a) of VAWA 2005, as amended by section 907(a) of VAWA 2013, calls for the National Institute of Justice (NIJ), in consultation with OVW, to conduct analyses and research on violence against Indian women in Indian country and Alaska Native villages. In conducting its analyses and research, NIJ is asked to focus on dating violence, domestic violence, sexual assault, sex trafficking, stalking, and murder, and to evaluate the effectiveness of responses to those violations.

As a direct result of this legislation, NIJ has developed a comprehensive research program consisting of multiple research studies that will be accomplished over an extended period of time. The capstone of this program is the National Baseline Study (NBS)—the first national study conducted in Indian country and Alaska Native Villages. The NBS is being conducted in geographically dispersed tribal communities across the U.S. and its primary aim is to provide an accurate *national* victimization rate of violence committed against American Indian and Alaska Native women. The NBS is critical to quantifying the magnitude of violence and victimization in tribal communities and understanding service needs.

NIJ's violence against Indian women program of research also supports other extramural and intramural research and evaluation studies that will: produce a deeper understanding of the issues faced by Native American women; expand the body of criminal justice policy-relevant research; and help formulate public policies and prevention strategies to decrease the incidence of violent crimes committed against American Indian and Alaska Native women. Results from all of these studies are anticipated to help establish and enhance justice systems that will successfully restore victim safety and promote healing. Appendix D, Tribal Crime and Justice Research & Evaluation Studies (September 2015), provides a full status report on NIJ's violence against Indian women program of research.

Prior to and during the development of the program of research, NIJ sought input and feedback from multiple sources including prominent researchers and experts in the field, federal stakeholders and partners, and the federal advisory committee established under section 904(a)(3) of VAWA 2005 – the Task Force on Research on Violence Against American Indian and Alaska Native Women (Task Force). The Task Force was officially chartered on March 31, 2008 and includes representatives from tribal governments, national tribal domestic and sexual violence non-profit organizations, and other national tribal organizations. Task Force members have provided feedback on NIJ's program of research priorities, research design strategies, research and evaluation protocol issues, and research and evaluation findings from studies conducted to date, as well as assisting with recommendations resulting from study findings and the development of new research questions to be addressed. Task Force input has been and continues to be invaluable to ensuring the program's success. NIJ and OVW would like to thank the Task Force members once again for their dedication to addressing violence against Native American women and their service on the committee. This forum has provided an important opportunity for tribal leaders, representatives, and stakeholder to work together with the U.S. Department of Justice to better understand the nature and scope of violence experienced by Native women and to bring about systemic change to address the needs of victims and their families and to hold offenders accountable. Moving forward the Task Force will continue to

play an important role in shaping the program and will assist NIJ and OVW with disseminating results that will influence policy and practice. To ensure that NIJ continues to receive timely advice from the Task Force, the Attorney General signed a re-charter for the Task Force, which was filed with Congress on October 28, 2014.

Office on Violence Against Women Deputy Director for Tribal Affairs

Section 907 of VAWA 2005 establishes in OVW a Deputy Director for Tribal Affairs with a portfolio of statutory responsibilities relating to violence against Indian women, including administering tribal grants, coordinating development of federal policy, providing support to other Departmental offices, and ensuring the availability of tribal technical assistance. In late 2006, OVW hired Lorraine Edmo, who is an enrolled member of the Shoshone-Bannock Tribe of Idaho, to serve as the Deputy Director for Tribal Affairs. Ms. Edmo currently oversees a staff of grant program specialists, coordinates implementation of the tribal provisions of VAWA within OVW, and meets with tribal leaders nationwide to gain a better understanding of the needs and challenges that tribes face. OVW's Tribal Affairs Unit has been working with a reduced staff due to departures and hiring limitations in recent years. However, in FY 2015, the Unit hired a new Tribal Lead and a new Tribal Program Specialist and expects to add additional staff in the near future.

Implementation of VAWA 2005 provisions on federal prosecutions in Indian country

Enhanced Criminal Law Resources

Section 908 of VAWA 2005 extends the federal firearms prohibition in 18 U.S.C. 922(g)(9) to reach persons convicted of qualifying *tribal* misdemeanor crimes of domestic violence. Such cases have proven difficult to pursue because tribal convictions do not qualify as predicate offenses unless the conviction meets statutory requirements that include right to counsel and right to a jury trial or waiver of those rights.

In July 2010, the Executive Office for United States Attorneys launched the National Indian Country Training Initiative (NICTI) to ensure that Department prosecutors, as well as state and tribal criminal justice personnel, receive the training and support needed to address the particular challenges relevant to Indian country prosecutions. In 2012, the NICTI, with funding from the Office for Victims of Crime (OVC), completed a training DVD and resource manual on "Using Federal Law to Prosecute Domestic Violence Crimes in Indian Country." This free training DVD highlights the substantive law and four successful federal prosecutions; it models best practices where federal and tribal partners work collaboratively to ensure justice for the victim and accountability for the offender. Training hosted by the NICTI and the DVD covering the federal domestic violence crimes statutes includes information on legal requirements for a successful investigation and prosecution of a violation of 18 U.S.C. § 922(g)(9).

Domestic Assault by an Habitual Offender

Section 909 of VAWA 2005 created a new federal crime, "Domestic Assault by an Habitual Offender," which enables federal prosecutors to charge any person who commits a domestic

assault within Indian country and who has a final conviction on at least two separate prior occasions in federal, state, or Indian tribal court for a previous assault, sexual abuse, or serious violent felony against a spouse or intimate partner. Several defendants have challenged the constitutionality of this provision arguing that tribal court convictions cannot be used as predicate offenses in cases where the defendant was not provided with appointed counsel. DOJ has vigorously defended the constitutionality of the habitual offender statute and will continue to do so. In 2011, both the Eighth and Tenth Circuit Courts of Appeal upheld the provision. *United States v. Cavanaugh*, 643 F.3d 592 (8th Cir. 2011), *cert. denied*, 132 S. Ct. 1542, 182 L. Ed. 2d 220 (2012); *United States v. Shavanaux*, 647 F.3d 993 (10th Cir. 2011), *cert. denied*, 132 S. Ct. 1742, 182 L. Ed. 2d 535 (2012). In contrast, the Court of Appeals for the Ninth Circuit held that a defendant's prior uncounseled tribal domestic abuse convictions could not be used as predicate offenses for a federal habitual domestic assault. *United States v. Bryant*, 769 F.3d 671 (9th Cir. 2014), *reh'g en banc denied*, 792 F.3d 1042 (9th Cir. 2015). On October 5, 2015, the United States filed a petition for a writ of certiorari with the United States Supreme Court seeking review of the *Bryant* decision and arguing that the *Bryant* holding is incorrect, in conflict with other circuits, and highly damaging to federal prosecutorial efforts to combat domestic violence in Indian country.

A review of DOJ's case management data shows that the number of defendants indicted under this provision increased from 12 in FY 2010 to 43 in FY 2013, with 39 indicted in FY 2014. However, for FY 2015, this number decreased to 19 with one month left in the fiscal year. Although this decrease may reflect in part the impact of the *Bryant* holding in the Ninth Circuit, DOJ is examining other possible causes and how to address them.

Implementation of VAWA 2013's tribal provisions related to special domestic violence criminal jurisdiction and the federal assault statute

Pilot Project for Tribal Criminal Jurisdiction over Crimes of Domestic Violence

Section 904 of VAWA 2013 (Tribal Jurisdiction over Crimes of Domestic Violence) recognized the inherent power of "participating tribes" to exercise "special domestic violence criminal jurisdiction" (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. Section 904 also specified the rights that a participating tribe must provide to defendants in SDVCJ cases. Section 908(b)(1) (Effective Dates; Pilot Project) provided that tribes generally could not exercise SDVCJ until at least two years after the date of VAWA 2013's enactment—that is, on or after March 7, 2015. However, section 908(b)(2) established a "Pilot Project" that authorized the Attorney General, in the exercise of her discretion, to grant a tribe's request to be designated as a "participating tribe" on an accelerated basis and to commence exercising SDVCJ on a date (prior to March 7, 2015) set by the Attorney General, after coordinating with the Secretary of the Interior, consulting with affected tribes, and concluding that the tribe's criminal justice system has adequate safeguards in place to protect defendants' rights.

After the enactment of VAWA 2013, the Department of Justice moved quickly to implement the Pilot Project. After consulting with tribal officials and requesting public comments, on

November 29, 2013, the Department published a final notice establishing procedures for tribes to request accelerated designation, establishing procedures for the Attorney General to act on such requests, and soliciting such requests from tribes.⁷

Two months later, on February 6, 2014, the Department announced the designation of three Indian tribes – the Pascua Yaqui Tribe of Arizona, the Tulalip Tribe of Washington, and the Umatilla Tribes of Oregon – as “participating tribes” under the Pilot Project. Two additional tribes’ applications were approved during the pilot period, the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation in Montana and the Sisseton Wahpeton Oyate of the Lake Traverse Reservation in South and North Dakota.

Although five tribes were approved to exercise SDVCJ during the pilot period, only the first three tribes were approved early enough to bring SDVCJ cases before the conclusion of the pilot period on March 7, 2015. During this year-long period, the three original pilot tribes had a total of 27 SDVCJ cases involving 23 separate offenders. In exercising SDVCJ, the pilot tribes have worked closely with their local United States Attorneys’ Offices and the Department to identify which cases are best for tribal handling and which are best for federal prosecution with the common goal of holding offenders accountable and keeping Native American women safe.

During consultation about Pilot Project implementation, tribal officials and employees repeatedly highlighted the usefulness of exchanging ideas with their counterparts in other tribes, peer to peer. With these views in mind, in June of 2013, the Department established an Intertribal Technical-Assistance Working Group on Special Domestic Violence Criminal Jurisdiction (ITWG) to exchange views, information, and advice about how tribes can best exercise SDVCJ, combat domestic violence, recognize victims’ rights and safety needs, and fully protect defendants’ rights. To date, forty-five tribes have voluntarily joined the ITWG, and almost of all of them have remained actively engaged in ITWG meetings, webinars, and exchanges of information. The Department is supporting the ITWG with training and technical assistance, including a three-year award by OVW to the National Congress of American Indians (NCAI) to support the ITWG’s ongoing work. The ITWG is scheduled to hold its fifth in-person meeting on November 2-3, 2015 at Squaxin Island Reservation, WA.

As of September 1, 2015, three additional tribes have implemented SDVCJ – the Little Traverse Band of Odawa Indians (MI), the Seminole Tribe of Oklahoma, and the Eastern Band of Cherokee Indians (NC). NCAI reports that, together, the eight tribes now exercising SDVCJ have made 42 SDVCJ arrests, resulting in 18 guilty pleas, 5 referrals for federal prosecution, one acquittal by jury, and 12 dismissals, with six cases pending. None of the SDVCJ non-Indian defendants has filed a habeas petition in federal court challenging his arrest or prosecution.

Amendments to the Federal Assault Statute

Police, prosecutors and medical providers across the country have begun to appreciate the inherent lethality risks of strangulation and suffocation crimes. Because domestic violence and sexual assault remain primarily a matter of state, local, and tribal jurisdiction, the federal government historically lacked the ability to adequately prosecute some intimate partner violence

⁷ See Pilot Project for Tribal Criminal Jurisdiction over Crimes Against Domestic Violence, 78 Fed. Reg. 71,645 (Nov. 29, 2013).

crimes. VAWA 2013 changed that by providing the federal government with additional statutory tools to prosecute these crimes. In particular, Congress recognized the gravity of strangulation and suffocation crimes by amending the federal assault statute, 18 U.S.C. § 113, to include a specific charge of assault or attempted assault by strangulation or suffocation. This change in the law was effective March 7, 2013.

The new federal law makes it possible to prosecute in Indian country a perpetrator who commits or attempts to commit an act of strangulation against a spouse, intimate partner, or dating partner. VAWA defines strangulation as the intentional, knowing, or reckless impeding of the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck – and importantly – regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim. This statute has been used with increasing frequency by federal prosecutors. In FY 2013, three strangulation cases were charged. In FY 2014, the number of strangulation cases indicted rose dramatically to 42 and then rose again in FY 2015 to 53. An example of a case recently prosecuted in the District of Montana is *United States v. Dallas Lawrence*. Lawrence was sentenced on May 4, 2015, to twenty years in prison after a jury convicted him of seven felonies, including two rapes, two strangulations, two assaults with intent to commit murder and assault with a dangerous weapon. Evidence presented at trial showed that Lawrence had been verbally and physically abusing the victim for some time. In September 2013, Lawrence stabbed the victim in her calf. She told medical personnel that in addition to the stabbing, Lawrence had tried to break her arms and legs to keep her from leaving. At trial, the prosecution introduced evidence that, in March 2014, Lawrence strangled the same victim with a humidifier cord after asking her, “How do you want me to do you in, fast or slow?” The victim was able to slip two fingers under the cord, but she still was unable to breathe. She eventually managed to escape the cord. In May 2014, the defendant again strangled the victim after beating her. He again asked her if she wanted to die fast or slow. He gripped both hands around her neck and strangled her until she was unconscious. Lawrence later told the victim he thought he had killed her and was going to hide her body in a crawlspace until he could find a place to bury it. During the summer of 2014, Lawrence also raped the victim on two separate occasions. This case provides an excellent example of how strangulation is used by perpetrators of intimate partner violence and the lethality risk of this particular type of violence.

To raise awareness about the issue and to educate professionals dealing with the legal or medical consequences of strangulation, the Department’s National Indian Country Training Initiative has been providing training and technical assistance to federal and tribal investigators, prosecutors, advocates and medical professionals around the country. These educational opportunities have been in the form of live training, webinars, and written publications.

Part Three: Strengthening the Federal Response to Violence Against American Indian and Alaska Native Women

In addition to the work described above responding to the concerns that tribal leaders raised on the ninth VAWA consultation (Part One) and implementing the Violence Against Women Act and its subsequent reauthorizations (Part Two), the Attorney General has launched a Department-wide initiative on public safety in tribal communities, with a particular focus on combating violence against women. DOJ has made combating violence against women in tribal communities a priority and is committed to providing training and resources to enhance federal investigations and prosecutions of crimes against Native women. As a part of this initiative, DOJ has taken a number of actions that respond to concerns and recommendations from past consultation sessions. These activities are discussed below.

- In January 2010, then-Deputy Attorney General David Ogden issued a memorandum to United States Attorneys directing that: (1) every United States Attorney's Office with Indian country in its district engage at least annually in consultation with the tribes in that district; and (2) every newly confirmed United States Attorney in such districts conduct a consultation with tribes in his or her district and develop or update the district's operational plan within eight months of assuming office. In April 2010, the Director of the Executive Office of United States Attorneys issued a memorandum providing guidance on specific elements that each district's operational plan should contain in seven areas: communication, investigations, victim advocacy, training, outreach, violence against women, and accountability. Concerning violence against women, the United States Attorneys were instructed that "vigorous investigation and prosecution of these crimes are essential to the safety of women and children in Indian country." Districts' operational plans were to address the following for cases of sexual assault: ready access to sexual assault kits for all medical and law enforcement personnel, existence of medical providers trained and skilled in performing forensic medical exams, timely laboratory analysis of sexual assault kits and other forensic medical evidence, and memoranda of understanding assigning responsibility to federal agencies for investigating cases. For cases of domestic violence, districts were asked to provide a plan for addressing misdemeanor level offenses committed by non-Indians against Indians and a plan to ensure that lethality risks and safety concerns are appropriately considered by prosecutors.
- The FBI's Office for Victim Assistance (OVA) has 43 Indian country-designated victim assistance positions, including 41 Victim Specialists and two child/adolescent forensic interviewers. In FY 2016, OVA will be adding two victim specialist positions to work Indian country cases and five additional child/adolescent forensic interviewers, many of whom will conduct forensic interviews in Indian country.
- In July 2010, DOJ's Executive Office for United States Attorneys (EOUSA) launched the National Indian Country Training Initiative (NICTI) to ensure that Department prosecutors, as well as state and tribal criminal justice personnel, receive the training and support needed to address the particular challenges relevant to Indian country prosecutions. This training effort is led by the Department's National Indian Country

Training Coordinator and is based at the National Advocacy Center (NAC) in Columbia, SC. Since its inception, the NICTI has delivered dozens of training opportunities at the NAC or in the field, including well over 100 lectures for other federal agencies, tribes, and tribal organizations held around the country. The NICTI had reached the 48 United States Attorneys' Offices with Indian country responsibility and over 200 tribal, federal, and state agencies. FY 2015 training addressing violence against women included, in part, the following: Sexual Assault Nurse Examiner Expert Witness Training, the National Institute on the Prosecution of Domestic Violence in Indian Country, and Domestic Violence Fatality Review Team Training. In addition to live training, the NICTI issues written publications and serves as faculty for other federal agency trainings, webinars, tribally hosted conferences, and technical assistance providers serving Indian country. Importantly, DOJ's Office of Legal Education covers the costs of travel and lodging for tribal attendees at classes sponsored by the NICTI. This allows many tribal criminal justice and social service professional to receive cutting-edge training from national experts at no cost to the student or tribe.

- The NICTI, in the context of training on issues related to intimate partner violence, has included training from personnel working for the National Missing and Unidentified Persons System (NamUS). NamUS is a DOJ-funded national centralized repository and resource center for missing persons and unidentified decedent records. This online system is free and can be searched by medical examiners, coroners, law enforcement officials, and the general public from all over the country in hopes of resolving these cases. Moreover, NamUS has experience working and solving cases arising in Indian country. Following the 2014 Consultation, the National Indian Country Training Coordinator forwarded information and a point of contact for NamUS to representatives of the National Indigenous Women's Resource Center, an OVW-funded technical assistance provider for tribes.
- The NICTI received funding from OVC and OVW to develop a new training DVD and resource materials on the issue of alcohol-facilitated sexual assault in Indian country. The DVD will focus on best practices for working with sexual assault victims who were using drugs or alcohol prior to their victimization, relevant federal statutes, and proper investigation and prosecution techniques. In addition, the NICTI developed a new training DVD and resource materials addressing the investigation and prosecution of domestic violence, sexual assault, and human trafficking crimes committed against Alaska Natives. These DVDs and resource materials will be available as a package in 2016.
- In 2015, EOUSA, FBI, the Office of Tribal Justice, and OVC established the Federal Victims in Indian Country Working Group (FedVIC), which comprises Special Agents, Assistant United States Attorneys, and victim assistance personnel from BIA, FBI, and United States Attorneys' Offices. FedVIC aims to ensure that victims of federal crime in Indian country receive the highest quality of services by enhancing federal responsiveness and collaboration. FedVIC will identify gaps in services to victims and the training needs of federal and tribal criminal justice system personnel and allied partners, as well as promote solutions and promising practices for communications and

collaboration among federal and tribal criminal justice system personnel and allied partners. For example, the working group has already identified the limited number of local or tribal victim assistance services or shelters and a lack of trained medical forensic examiners as gaps. Moving forward, FedVIC will identify promising practices, as well as funding, training, and policy solutions, to address these and other gaps.

- In 2012, OVW launched a Tribal Special Assistant United States Attorney (SAUSA) Pilot project. The pilot project's goal is to fund eligible tribal prosecutors to pursue violence against women cases in both tribal and federal courts and to enhance collaboration between tribal officials and federal prosecutors. The program enables tribal prosecutors to bring violence against women cases in federal court and to serve as co-counsel with federal prosecutors on felony investigations and prosecutions of offenses arising out of their respective tribal communities. Three-year awards were made to Fort Belknap Tribe in Montana, the Winnebago Tribe in Nebraska, the Pueblo of Laguna in New Mexico, and the Standing Rock Sioux Tribe in North Dakota and South Dakota. Through this special initiative, OVW supports salary, travel and training costs of four tribal SAUSAs, who are working in collaboration with the United States Attorneys' Offices in the Districts of Nebraska, New Mexico, Montana, North Dakota and South Dakota. Tailored to meet the particular needs of each participating tribe, this pilot project is designed to improve the quality of cases, the coordination of resources, and the communication of priorities both within and between the various law enforcement agencies working in these jurisdictions. Tribal SAUSAs are in place with Fort Belknap Tribe, the Winnebago Tribe, and the Standing Rock Sioux Tribe. The original Tribal SAUSA from the Pueblo of Laguna took a permanent position in the United States Attorney's Office; a replacement is expected to be in place soon. DOJ is exploring ways to extend funding on this project.
- In 2011, the Attorney General launched a Violence Against Women Federal and Tribal Prosecution Task Force composed of federal and tribal prosecutors. The Task Force was created to facilitate dialogue and coordinate efforts between the Department and tribal governments regarding the prosecution of violent crimes against women in Indian country and to develop best-practices recommendations for both federal and tribal prosecutors. A prosecutor's resource manual written by the Task Force members is in the final editing process, and the Department anticipates that it will be publicly released before the end of 2015.
- In accordance with Section 265 of the Tribal Law and Order Act, the Department's Office for Victims of Crime (OVC) is partnering with the FBI's Office of Victim Assistance and the Indian Health Service to enhance the response to tribal victims of sexual violence. The AI/AN Sexual Assault Nurse Examiner-Sexual Assault Response Team (SANE-SART) Initiative focuses on the challenge of building the capacity of tribal communities to provide coordinated, community-based, victim-centered responses to sexual violence. The five-year project encompasses three demonstration sites, coordinators at the Indian Health Service and the FBI, training and technical assistance, and support from the Attorney General's federal advisory committee and multidisciplinary groups—all committed to institutionalizing sustainable, culturally

relevant, evidence-based practices to meet the needs of tribal victims of sexual assault. Highlights from the initiative's efforts in the past 12 months include the following:

- **AI/AN SANE–SART Demonstration Sites:** The three tribal demonstration sites are the Mississippi Band of Choctaw Indians, the Southern Indian Health Council, and the Tuba City Regional Healthcare Corporation. Each site is now operating functional SANE–SART programs that provide services to both child and adult victims of sexual assault. The demonstration initiative officially ended in FY 2015, and OVC will be reviewing the outcomes of the initiative to identify promising practices that can be used to assist other tribal communities interested in adopting a SANE-SART response model to sexual violence.
 - **Tailored Training and Technical Assistance Project:** In the coming year, OVC will focus its efforts on restructuring this project and developing a plan to strategically market the opportunity for tribal communities to receive training and technical assistance on adopting the SANE-SART response model to sexual violence.
 - **National Coordination Committee on the Initiative:** In 2014, OVC's National Coordination Committee on the AI/AN SANE-SART Initiative finalized its *Report to the U.S. Attorney General on Improving Federal Agency Response to Sexual Violence in Tribal Nations: Issues and Recommendations*, and submitted it to the Attorney General. The committee's recommendations focus on four major areas: (1) federal agency collaboration at the local level; (2) DOJ personnel policy changes; (3) DOJ grant solicitations and funding; and (4) public safety and public health. After briefing then-Attorney General Holder on the report in late 2014, the committee submitted a detailed memorandum to the Office of the Attorney General outlining action steps that DOJ can take to implement the committee's recommendations. Attorney General Lynch is currently reviewing this memorandum.
 - **National Strategy to Improve the Systemic Response to Sexual Violence in AI/AN Communities:** OVC established a multi-disciplinary working group of Indian country professionals who have significant experience in developing a coordinated community response to sexual violence to aid in the creation of a national strategy to enhance the ability of tribal governments and their partners to respond to sexual violence. The first draft of the national strategy was completed in early 2014 based on the recommendations of the working group members. The draft strategy is currently under review by OVC, the Indian Health Service, and OVW, as the three agencies work to finalize a plan for dissemination of the strategy.
 - More information about the initiative and its multiple components is available at www.ovc.gov/AIANSane-Sart/.
- OVW provides funding to the Southwest Center for Law and Policy (SWCLAP) to support the National Indian Country Clearinghouse on Sexual Assault (NICCSA or the Clearinghouse). The Clearinghouse's website, www.NICCSA.org, serves as a one-stop shop for information on sexual violence against American Indian/Alaska Native (AI/AN) women and teenage girls and includes a toll-free helpline to provide personalized

assistance to Indian country justice and service professionals in solving complex legal, forensic, and programmatic challenges. SWCLAP also has designed and delivered interactive presentations on accessing the Clearinghouse to OVW grantees, federal agencies, local law enforcement, and major tribal stakeholders across the United States, including in California, Alaska, Arizona, Oklahoma, Kansas, Washington, Wyoming, and New Mexico. The Clearinghouse is on track to record 25,000 new, distinct users (many who access the Clearinghouse multiple times) by December 31, 2015. Original research, videos, training modules, and articles on cutting edge topics related to sexual violence against AI/AN women have been developed and posted on the Clearinghouse website. As a result, the Clearinghouse has received a marked rise in training and technical assistance requests on elder abuse in Indian country and on sexual and domestic violence against AI/AN women with disabilities and against Two Spirit persons.

- As part of the Clearinghouse, OVW also funds SWCLAP to address the issue of providing service referrals, emergency first aid, and collection and preservation of sexual assault evidence in rural and geographically-isolated tribal communities. SWCLAP's SAFESTAR (Sexual Assault Forensic Examinations, Services, Training, Advocacy, and Resources) Project provides a 40-hour training for community-based lay health care providers (such as traditional midwives, medicine people, and community health aides) to collect and preserve forensic evidence in sexual assault cases, triage sexual assault-related injuries and health concerns, and provide referrals to sexual assault services. A companion training curriculum for tribal victim advocates, healthcare professionals, law enforcement officers, and prosecutors on their roles in responding to sexual assault cases was also produced. SAFESTAR also has worked intensively with the states of Arizona, Wyoming, Oklahoma, and Kansas and the tribes located within the geographic boundaries of those states to develop and implement inter-jurisdictional civil, criminal, healthcare, and services protocols to promote safety and justice for Native women. This state-tribal coordination also includes federal allies such as the FBI, BIA, United States Attorneys, the BIA Crime Lab, and the Indian Health Service. State partners include statewide investigative agencies, state STOP Administrators, and state victim compensation funds, among others.
- The National Tribal Trial College and NICCSA have developed a certification course for lay advocates representing AI/AN sexual assault survivors in tribal courts. To address the severe shortage of legal representation for AI/AN sexual assault survivors, the course provides a mix of on-line, distance learning and on-site litigation training that results in a certificate in Tribal Court Legal Advocacy issued jointly by the National Tribal Trial College and the University of Washington School of Law. The certification course consists of 20 webinars followed by a week-long trial advocacy institute conducted in collaboration with the University of Washington School of Law. Seventeen lay advocates successfully completed the course in July 2015, and it is already underway for the fall 2015 semester and will be offered again in 2016.
- The National Tribal Trial College continues to provide skills based, hands-on legal training at no cost to CTAS grantees through two-day intensive institutes held in cities across the United States. In 2015, advocates for American Indian and Alaska Native

survivors of domestic and sexual violence completed interactive, skills-based training on the litigation of civil protection orders in Anchorage, Alaska. An institute in Seattle, Washington on addressing the unique legal and service needs of American Indian and Alaska Native victims with disabilities and another one in Tucson, Arizona on effective preservation and assertion of victim rights in tribal, state, federal, and administrative courts are scheduled for fall 2015.

- OVW, in partnership with the National Clearinghouse on Abuse in Later Life (NCALL), held a tribal listening session on abuse in later life in tribal communities on March 3-4, 2015 in New Orleans, LA. Approximately 25 tribal representatives participated in the listening session, which was held to inform technical assistance for tribal grantees under OVW's Abuse in Later Life Program. In addition to the listening session, NCALL conducted site visits with the tribal communities that have received Abuse in Later Life Program grants. Based on the listening session and site visits, NCALL is working with consultants, including Vicki Ybanez with Red Wing Consulting, to develop a document that will assist tribes in assessing their readiness to address elder abuse and in exploring options that account for their unique circumstances and culture.
- In 2012, OVC partnered with the National Institute of Justice to award funds to the Massachusetts Department of Public Health (MDPH) to establish a National Sexual Assault TeleNursing Center. The Center, which became operational in November 2014, provides 24/7, 365 days-a-year remote expert consultation by Massachusetts Sexual Assault Nurse Examiners to clinicians caring for adult and adolescent sexual assault patients in underserved areas. Three national pilot sites serving priority populations were selected to partner with the TeleNursing Center for this demonstration project. They are the Twenty-Nine Palms Naval Hospital in California, the Hopi Healthcare Center in Arizona, and the Sutter Lakeside Hospital in California. The TeleNursing Center will be adding more sites over the next 12 months, including two in Massachusetts and the Marine Corps Base at Camp Pendleton in San Diego, CA. More information is available at www.mass.gov/dph/telenursing.
- OVW has worked with the White House and other federal agencies on developing coordinated responses to an increase in reported crimes and requests for crisis intervention services for domestic violence and sexual assault in Western North Dakota and Eastern Montana, a region also known as the Bakken. On April 25, 2014, OVW announced the release of two grant solicitations to launch a new \$3 million special initiative for the Bakken region to support the expansion of services to victims of sexual assault, domestic violence, and stalking, as well as aid the local criminal justice system in responding to these crimes. The Bakken Region Initiative was developed through a collaborative process resulting from OVW's July 2013 fact-finding trip to the region, during which OVW leadership met with local and tribal advocates and law enforcement, tribal leaders, the U.S. Attorney, FBI agents, and victim service staff. The initiative includes two components:
 - 1) The Bakken Region Tribal SAUSA Initiative supports tribal SAUSAs for the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation in Montana

and the Three Affiliated Tribes of the Fort Berthold Indian Reservation in North Dakota. These two new tribal SAUSAs, like the four described above, will be cross-designated to bring cases in both tribal and federal courts and work in collaboration with the United States Attorneys' Offices in Montana and North Dakota.

- 2) The Bakken Region Enhanced Response to Victims Initiative funds state domestic violence and sexual assault coalitions, as well as local and tribal victim service providers responding to the increased demand for domestic violence and sexual assault victim services. This funding and related technical assistance also helps those working to prevent violence and support survivors.

The five grantees supported by OVW's Bakken Region Initiative are: Fort Peck Assiniboine and Sioux Tribes in Poplar, Montana; First National Women's Alliance in Devils Lake, North Dakota; Montana Coalition Against Domestic and Sexual Violence in Helena, Montana; North Dakota Council on Abused Women's Services in Bismarck, North Dakota; and Three Affiliated Tribes of the Fort Berthold Reservation in New Town, North Dakota.

Appendix A – 2014 Consultation Agenda and Framing Papers

Government-to-Government Violence Against Women Tribal Consultation Wednesday, October 15, 2014 Rapid City, SD

8:00 a.m. – 9:00 a.m.

REGISTRATION

9:00 a.m. – 9:30 a.m.

WELCOME

Lorraine Edmo (Shoshone-Bannock), Deputy Director for Tribal Affairs, Office on Violence Against Women, U.S. Department of Justice

FLAG SONG

Host Drum: *Ateyapi*

Lead Singer: *Whitney Rencountre II (Crow Creek Sioux), Rapid City, SD*

Color Guard: *Native American Veterans Association Post #1 of Rapid City, SD, staffed by Master Sargent Dino Holy Eagle (Cheyenne River Sioux) and Corporal Ed Cut Grass (Oglala Sioux)*

TRADITIONAL OPENING

The Honorable Roxanne Sazue, Chairwoman, Crow Creek Sioux Tribal Council, Ft. Thompson, SD

SHAWL CEREMONY

Native Women's Society of the Great Plains, Carmen O'Leary, Director

WELCOMING REMARKS

The Honorable Cyril Scott, President, Rosebud Sioux Tribal Council, Rosebud, SD

The Honorable Brendan V. Johnson, United States Attorney, District of South Dakota, U.S. Department of Justice

9:30 a.m. – 10:00 a.m.

GOVERNMENT-TO-GOVERNMENT CONSULTATION

Co-Facilitator: Lorraine Edmo (Shoshone-Bannock)

Co-Facilitator: Erin Shanley (Cheyenne River Sioux), Special Assistant U.S. Attorney for the Standing Rock Sioux Tribe

UPDATE FROM LAST CONSULTATION

Bea Hanson, Principal Deputy Director, Office on Violence Against Women, U.S. Department of Justice

FEDERAL AGENCY UPDATE

Remarks from Leadership of the Departments of Health and Human Services and the Interior

10:00 a.m. – 10:30 a.m.

TRIBAL LEADER INTRODUCTIONS

10:30 a.m. – 12:00 p.m.

TRIBAL LEADER TESTIMONY

12:00 p.m. – 1:00 p.m.

LUNCH PRESENTATION

National Institute of Justice's Program of Research Examining Violence Against American Indian and Alaska Native Women Living in Tribal Communities

Christine Crossland, Senior Social Science Analyst, Office of Research and Evaluation and Director, American Indian and Alaska Native Violence Prevention Research Program, National Institute of Justice

Ada Pecos Melton, President, American Indian Development Associates, LLC, and Project Director, National Baseline Study Research Contract

1:30 p.m. – 4:30 p.m.

TRIBAL LEADER TESTIMONY

4:30 p.m. – 5:00 p.m.

TRADITIONAL CLOSING AND SUMMARY COMMENTS

We welcome testimony and input on a wide variety of topics related to violence against women and are interested in learning about the issues and areas that each tribal leader brings to this forum. In addition, we would appreciate input and responses you might have to the following questions:

OVW Consultation Question – VAWA 2005 Section 905(b) Sex Offender and Protection Order Registries:

- a. Should OVW fund a Training and Technical Assistance Provider to work with Tribal Law Enforcement and Tribal Courts to increase the number of tribal court protection orders entered into the NCIC POF and also to work with state and local officials to ensure that such agencies entering tribal protection orders into the NCIC POF are properly coding the orders so that they are identified in the NCIC POF as a tribal order?
- b. Should OVW fund a Training and Technical Assistance provider to develop an operational plan and program guidance for development and maintenance of a public sex offender registry for tribes? Should OVW fund this Training and Technical Assistance provider to do strategic planning with tribes interested in submitting offender information to the VAWA 2005 Section 905(b) Tribal Sex Offender Registry? Should the VAWA 2005 Section 905(b) Tribal Sex Offender Registry be limited to tribes that are not maintaining or implementing sex offender registries pursuant to SORNA?

DOJ Consultation Question – Tribal Law and Order Act of 2010 and Bureau of Prisons Pilot Program

- a. The time period for the TLOA BOP Pilot Program providing for the incarceration in a BOP facility of certain tribal offenders sentenced in tribal court ends on November 29, 2014. Would your tribe support legislation extending the BOP tribal prisoner program?
- b. Should the current project be extended as a pilot project, or should it be instituted as a permanent project?

OVW Consultation Question – STOP Violence Against Women Formula Program, State Consultation with Tribes:

- a. How should states recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund culturally specific services and activities for underserved populations are distributed equitably among those populations?
- b. What does it mean for a state to consult with tribes? This includes both whom they should include and how.



Consultation Question: Should OVW fund a Training and Technical Assistance Provider to work with Tribal Law Enforcement and Tribal Courts to increase the number of tribal court protection orders entered into the NCIC POF and also to work with state and local officials to ensure that such agencies entering tribal protection orders into the NCIC POF are properly coding the orders so that they are identified in the NCIC POF as a tribal order?

Consultation Question: Should OVW fund a Training and Technical Assistance provider to develop an operational plan and program guidance for development and maintenance of a public sex offender registry for tribes? Should OVW fund this Training and Technical Assistance provider to do strategic planning with tribes interested in submitting offender information to the VAWA 2005 Section 905(b) Tribal Sex Offender Registry? Should the VAWA 2005 Section 905(b) Tribal Sex Offender Registry be limited to tribes that are not maintaining or implementing sex offender registries pursuant to SORNA?

The Violence Against Women Act of 2005 (VAWA 2005), Section 905(b), provided for the creation of a tribal registry or registries. Specifically, VAWA 2005 said that “[t]he Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—(A) a national tribal sex offender registry; and (B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.” VAWA 2005 authorized \$1,000,000.00 for each of fiscal years 2007 to 2011 to be appropriated to carry out this provision.

Project History:

OVW hosted a focus group on developing the registries in September of 2008. During this meeting, OVW heard from representatives from tribal law enforcement, the Federal Bureau of Investigation (FBI), federal prosecutors, and others with expertise in the area of criminal justice information-sharing. OVW has also engaged in discussions with the DOJ’s SMART Office to discuss how this provision intersects with that Office’s work to implement the Adam Walsh Act. Due to limited funding, OVW announced in 2011 that it would implement the databases sequentially and would develop the National Tribal Order of Protection Registry first.

On October 1, 2012, OVW issued a Call for Concept Papers seeking applicants to develop and maintain a national tribal protection order registry. The Call for Concept Paper indicated that applicants could request up to \$2.5 million to implement their proposed project. Of the approximately \$3.9 million that Congress has appropriated since FY 2008 for development of the tribal registries, OVW reserved approximately \$1.4 million for future development of the national tribal sex offender registry. OVW received two applications via Grants.gov, which were both peer reviewed. The consensus among the reviewers was that both proposals lacked partners who could ensure the project’s success, including access to the NCIC. Consequently, neither application was recommended for funding.



Because most of the effort to date concerning implementation of Section 905(b) concerns the tribal protection order registry, this framing document starts with it.

VAWA 2005 SECTION 905(b) TRIBAL PROTECTION ORDER REGISTRY

Basic Description of How NCIC Operates

*The information in this section of the framing paper is drawn from the following FBI webpage:
<http://www.fbi.gov/about-us/cjis/ncic>.*

The National Crime Information Center (NCIC) is a voluntary system launched in 1967. The NCIC database currently consists of 21 files. There are seven property files containing records of stolen articles, boats, guns, license plates, parts, securities, and vehicles. There are fourteen persons files, including the National Sex Offender Registry (NSOR) and the National Protection Order File. By the end of FY 2011, NCIC contained almost 12 million active records, including tribal court orders.

Criminal justice agencies enter records into NCIC that are accessible to law enforcement agencies nationwide. For example, a law enforcement officer can search NCIC during a traffic stop to determine if the driver is wanted by law enforcement. The system responds instantly. If a search of NCIC records shows that an individual is wanted on an outstanding warrant, NCIC policy requires the inquiring agency to make contact with the entering agency to verify the information is accurate and up-to-date.

NCIC is operated under an agreement between the FBI's Criminal Justice Information Services Division (CJIS) and federal, state, local and tribal criminal justice users. CJIS provides a host computer and telecommunication lines to a single point of contact in each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and Canada. Those jurisdictions, in turn, operate their own computer systems, providing access to local criminal justice agencies. The entry, modification, and removal of records are the responsibility of the agency that entered them. The CJIS Division serves as the custodian of NCIC records.

The head of the CJIS Systems Agency - the criminal justice agency that has overall responsibility for the administration and usage of NCIC within a district, state, territory, or federal agency – appoints a CJIS systems officer (CSO) from its agency. The CSO is responsible for monitoring system use, enforcing system discipline and security, and ensuring that all users follow operating procedures. NCIC policy establishes a number of security measures to ensure the privacy and integrity of the data. The information passing through the network is encrypted to prevent unauthorized access. Each user of the system is authenticated to ensure proper levels of access for every transaction. To further ascertain and verify the accuracy and integrity of the data, each agency must periodically validate its records. Agencies must also undergo periodic audits to ensure data quality and adherence to all security provisions.



Tribes and Federal Criminal Database Access

Tribal leaders have long told Department leadership about numerous difficulties and obstacles to tribal police and tribal courts having access to federal criminal databases. Congress has attempted several times to make it easier for tribes to be able to both query and submit information to these important databases. Section 905(a) of VAWA 2005 required the Attorney General to permit Indian law enforcement agencies, in cases of domestic violence, stalking, sexual assault and dating violence, to enter information into Federal criminal information databases and to obtain information from the databases. This same statute, 28 U.S.C. § 534, was amended again with the passage of the Tribal Law and Order Act of 2010. The statute now states that “the Attorney General shall permit tribal and Bureau of Indian Affairs law enforcement agencies (1) to access and enter information in to Federal criminal information databases; and (2) to obtain information from the databases.” Access to these databases is no longer premised on the offense being a crime of domestic violence, stalking, sexual assault or dating violence. “National crime information databases” is defined as the National Crime Information Center (NCIC) and its incorporated criminal history databases, including the Interstate Identification Index. See 28 U.S.C. § 534(3)(A).

The FBI’s CJIS Division permits individual states access to NCIC, and it enters into a user agreement with every state outlining the terms and conditions of that state’s access to NCIC. Each state, in turn, has their own state-level CJIS that dictates policy and access to NCIC at the state level. Some states have laws or policies which, in effect, prohibit or limit tribes’ access to NCIC. In addition, equipment and training needs associated with access to these databases has proven cost prohibitive for some tribes. And, in some jurisdictions, the tribes provide records, like protection orders, to county or state officials to enter into federal criminal databases. However, if the county or state does not use the proper codes, the order will not show up in the system as a tribal order.

The Department has been working assiduously the past several years to assist tribes that are interested in securing greater access to federal criminal databases. In April 2009, the Attorney General discovered that a number of tribal law enforcement agencies did not have access to NCIC. This led to a pilot project where approximately twenty tribes were provided direct NCIC access via the Department’s Justice Telecommunications System (JUST). JUST provides Department headquarters, field offices, and other Federal agencies, with accessibility to sensitive information stored in various law enforcement databases. This pilot project is funded by DOJ’s Community Oriented Policing Services Office (COPS). While the Department realizes that this pilot project has not solved the issue for all tribes, it is one step in what we hope will be a comprehensive solution.

The Department has also witnessed tribes submitting records to federal criminal databases with increasing frequency in a number of different areas. For example, The Department through the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) continues to provide support to tribal jurisdictions that have opted to implement



SORNA. Of the approximately 160 eligible tribes, 71 have been found to have substantially implemented SORNA and the rest working towards substantial implementation. And, the SMART Office continues to work with Tribes, States, local and Federal partners in order to facilitate the submission of offender information into NCIC/NSOR. The SMART Office has also worked with a contractor to develop the Tribal and Territory Sex Offender Registry System (TTSORS). This system allows tribes to set up a SORNA compliant public website and public notification system at no cost to them. Currently, over 100 tribes have utilized TTSORS to set up public sex offender websites linked to the National Sex Offender Public Website (NSOPW) which is administered by SMART. In addition, since 2009, the FBI's Uniform Crime Reporting (UCR) Program Office has coordinated with the Bureau of Indian Affairs and the Justice Department's Office of Justice Programs to increase the number of tribes that qualify for Justice Assistance Grants (JAG) eligibility based on the submission of UCR crime data.

Regardless of the development of the VAWA Section 905(b) registries, it is critically important that a tribe desiring to submit records of conviction to federal criminal databases, particularly for domestic abuse and sexual assaults, be able to do so without impediments. Information contained in federal criminal databases, like NCIC, is widely reviewed by federal, state, local and tribal criminal justice professionals across the country. Access to information in federal criminal databases is vitally important not only to victim and community safety, but also to officers responding to a call for service.

NCIC Protection Order File

As stated above, a national protection order registry already exists within NCIC. The NCIC Protection Order File (NCIC POF) was developed to serve as the national registry for protection orders issued in state and tribal courts. The NCIC POF is a voluntary system and is designed to facilitate the enforcement of protection orders and federal firearm laws. The ability of law enforcement to confirm the existence of a protection order in the NCIC POF takes on added importance when a protected party requests enforcement of an order issued by a foreign jurisdiction and she/he does not have a copy of the order in her/his possession. In addition, the NCIC POF is one of the files searched when a background check is requested of the National Instant Criminal Background Check System (NICS) prior to the transfer of a firearm to a potential firearm buyer.

Some tribes have the ability to enter protection orders directly into NCIC and some tribes have executed agreements or memoranda of understanding (MOUs) for the state to enter the orders on behalf of the tribe. Orders issued by state courts or tribal courts in tribes that enter the orders directly into NCIC should be entered into the NCIC POF within 24 hours after issuance by the court (or sooner, if required by State law or agency policy/procedures). State jurisdictions that have MOUs with a tribal jurisdiction to enter tribal orders into the NCIC POF should enter tribal orders into the NCIC POF within 24 hours of receipt at the entering agency specified in the agreement or MOU. Delays in the entry of protection orders into the system present risks to the petitioner and other protected parties.



What type of protection order registry does VAWA 2005 Section 905(b) require be developed?

VAWA 2005 is silent on whether Congress intended for the Section 905(b) tribal protection order registry to be law enforcement sensitive or accessible to all interested citizens. A different section of federal law, however, makes clear that protection order information that reveals the identity or location of a protected party cannot be posted on the Internet. Section 2265(d)(3) of Title 18 provides that “[a] State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction [sic] in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.” Therefore, any registry developed pursuant to VAWA 2005 cannot be publicly accessible on the Internet.

Who can access NCIC?

To qualify for access to criminal history record information, a requesting entity must be authorized access to the NCIC pursuant to 28 U.S.C. § 534, which provides that the exchange of criminal history and similar records shall be “with, and for the official use of, authorized officials of the Federal government, . . . the States, . . . Indian tribes, cities, and penal and other institutions.” The United States Department of Justice and federal courts have interpreted this language to restrict access to such criminal history records to **criminal justice agencies for criminal justice purposes** and to federal agencies authorized to receive them pursuant to a federal statute or executive order. Title 28, Code of Federal Regulations, section 20.3(g) defines a criminal justice agency as “(1) courts; and (2) a governmental agency or any subunit thereof that performs the administration of criminal justice pursuant to a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice.”

Therefore, all tribal nonprofit organizations and most tribal organizations – except those meeting the definition of a criminal justice agency - cannot be authorized to have NCIC access. A tribal police department on the same reservation as a tribal organization or tribal nonprofit organization applying to develop the tribal protection order registry may have NCIC access, but it would constitute of violation of NCIC rules and regulations for the tribal law enforcement agency to share information learned from a NCIC search with a non-criminal justice agency.

* * *

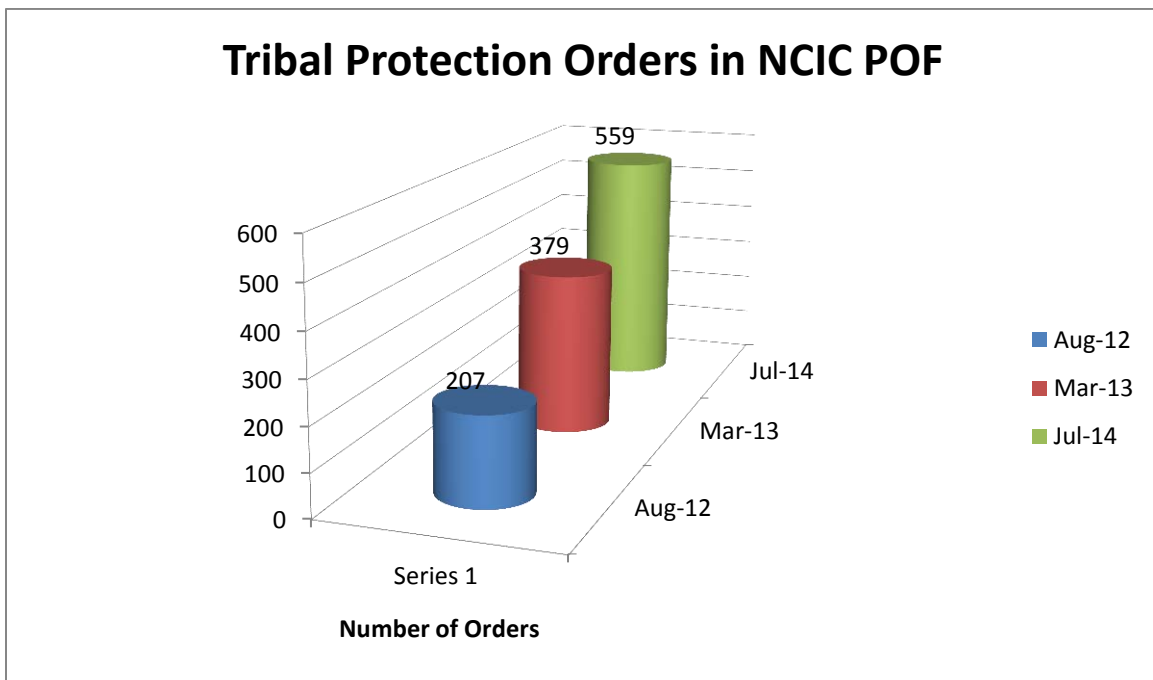
So, while Section 905(b) provides that the Attorney General “shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization” to develop the tribal protection order registry, the legal reality is that unless these entities fit within the definition of criminal justice agency they will be prohibited from accessing NCIC and submitting tribal court



protection orders to the NCIC POF. Furthermore, federal law precludes posting publicly on the Internet information included in a protection order that will identify the victim or her location. Thus, these two aspects of federal law and relevant federal regulations have proven a challenge for implementation of the tribal protection order registry authorized by Section 905(b).

An Alternative for Tribal Leaders to Consider:

In the past year, OVW has discussed with tribal leaders the existence of the NCIC POF. Some tribal leaders have asked OVW if the tribal protection order registry called for in Section 905(b) replicates what is already available in the NCIC POF. The short answer is yes. However, this fact also raises the issue of the number of tribes currently entering protection orders into the NCIC POF. Therefore, during FY 14, OVW, working in concert with a number of Department components, researched the number of tribal police departments and tribal courts submitting orders of protection into the NCIC POF. The number of tribal protection orders has steadily increased from a total of 207 protection orders entered as of August 2012 to 559 protection orders on file as of July 2014. (See table below.) We credit this increase to training and outreach efforts led by OVW and the National Indian Country Training Initiative.



Protection orders entered into the NCIC POF are reviewable by all criminal justice agencies (police, prosecutors and courts) with NCIC access. Given tribes' increasing use of the NCIC POF, should OVW - instead of funding a tribal-specific protection order registry - use a portion of the Section 905(b) money to support a Training and Technical Assistance Provider to work



with Tribal Law Enforcement and Tribal Courts to increase the number of tribal court protection orders entered into the NCIC POF and also to work with state and local officials to ensure that such agencies entering tribal protection orders into the NCIC POF are properly coding the orders so that they are identified in the NCIC POF as a tribal order?

VAWA 2005 SECTION 905(b) TRIBAL SEX OFFENDER REGISTRY

VAWA 2005 was signed into law the first week of January 2006. Six months later the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248) was enacted. Title I of the Adam Walsh Act is the Sex Offender Registration and Notification Act commonly referred to as SORNA. SORNA provides a comprehensive set of minimum standards for sex offender registration and notification in the United States. SORNA aims to close potential gaps and loopholes that existed under prior law and generally strengthens the nationwide network of sex offender registration and notification programs. Additionally, SORNA:

- Extends the jurisdictions in which registration is required beyond the 50 states, the District of Columbia, and the principal U.S. territories, to include federally recognized Indian tribes.
- Incorporates a more comprehensive group of sex offenders and sex offenses for which registration is required.
- Requires registered sex offenders to register and keep their registration current in each jurisdiction in which they reside, work, or go to school.
- Requires sex offenders to provide more extensive registration information.
- Requires sex offenders to make periodic in-person appearances to verify and update their registration information.
- Expands the amount of information available to the public regarding registered sex offenders.
- Makes changes in the required minimum duration of registration for sex offenders.
- Includes tribal convictions as registerable offenses.
- Created the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) to administer the SORNA standards and provide resources, training and technical assistance to the jurisdictions et al.
- Requires jurisdictions to collect and submit information to Federal databases and share information with law enforcement and the public.
- Enacts penalties for all jurisdictions for failure to meet the SORNA standards in a timely fashion.
- Provides legal authority for collection and posting of sex offender data.

Section 127 of SORNA (42 U.S.C. § 16927) provided that certain tribes could elect to function as a sex offender registry jurisdiction subject to meeting all the requirements imposed by SORNA. Currently, over 160 tribes are working with DOJ's SMART Office to implement SORNA. However, Section 127 exempted all mandatory Public Law 280 tribes and provided



that in those jurisdictions all sex offender registry responsibilities are automatically delegated to the state.

The final SORNA guidelines are extensive and were published in the Federal Register on July 2, 2008 and can be found at http://ojp.gov/smart/pdfs/fr_2008_07_02.pdf

In contrast to the detailed provisions of SORNA and its implementing guidelines, the statute creating the Section 905(b) sex offender registry includes no guidance or criteria for important issues like the following:

- A list of registerable offenses
- The length of time an offender remains on the tribal registry
- A designation of who has responsibility for correcting any errors on the registry
- The level of information to be publically available
- The inclusion of juvenile offenders
- Penalties for failing to register
- Victim protections
- A designated agency to administer the standards
- Legal authority

Without adequate and appropriate registry guidelines, sex offenders' due process protections, and possibly their personal safety, may be compromised. Moreover, without sufficient guidelines for development of the registry and use of the registry, victims of sexual assault crimes may be further harmed should their identities be inadvertently publicly published.

An Alternative for Tribal Leaders to Consider:

Given the lack of criteria to guide implementation of Section 905(b)'s national tribal sex offender registry, should OVW fund a Training and Technical Assistance provider to develop an operational plan and program guidance for development and maintenance of the VAWA 2005 Section 905(b) Tribal Sex Offender Registry? Should OVW fund this Training and Technical Assistance provider to engage in strategic planning with tribes interested in submitting offender information to a stand-alone tribal sex offender registry? Should the VAWA 2005 Section 905(b) Tribal Sex Offender Registry be limited to tribes that are not maintaining or implementing sex offender registries pursuant to SORNA?



Tribal Law and Order Act of 2010 and Bureau of Prisons Pilot Program Framing Paper

September 2014

Issue: The time period for the TLOA BOP Pilot Program providing for the incarceration in a BOP facility of certain tribal offenders sentenced in tribal court ends on November 29, 2014.

Consultation Questions:

- 1) Would your tribe support legislation extending the BOP tribal prisoner program?**
- 2) Should the current project be extended as a pilot project, or should it be instituted as a permanent project?**

Background:

The Tribal Law and Order Act of 2010, P.L. 111-211 (TLOA, or the Act) was signed into law by the President on July 29, 2010. Section 234(c) of the Act required the Director of the Bureau of Prisons (BOP) to establish a four-year pilot program to accept in to BOP institutions certain tribal offenders convicted in tribal courts for committing violent crimes. Per TLOA, the maximum number of tribal offenders in the pilot program at any time was 100. In accordance with the requirement to establish the pilot program within 120 days after the Act’s enactment, the program was implemented on November 29, 2010.

Inmate	Tribe	Charge	Sentencing Information	Bureau Facility
1	Confederate Tribes of the Umatilla Reservation	Felony Assault and Felony Conspiracy to Commit an Assault	Sentence Imposed: 2 years and 3 months Release Date: 4/3/2015	Federal Correctional Institution (FCI) Herlong
2	Confederate Tribes of the Umatilla Reservation	Assault	Sentence Imposed: 2 years and 2 months Release Date: 2/13/2015	FCI Sheridan
3	Eastern Band of Cherokee Nation	DWI; DWLR; Assault on a Female; Injuring Public Property; and Failure to Obey a Lawful Order of the Court	Sentence Imposed: 4 years Release Date: 11/16/2016	United States Penitentiary McCreary
4	Eastern Band of Cherokee Nation	Assault Inflicting Serious Bodily Injury and Assault with a Deadly Weapon	Sentence Imposed: 3 years Release Date: 5/3/2016	FCI Butner II
5	Tulalip Tribes	Sexual Abuse of a Minor	Sentence Imposed: 3 years Release Date: 11/18/2016	FCI Sheridan



Tribal Law and Order Act of 2010 and Bureau of Prisons Pilot Program Framing Paper

September 2014

Since implementation of the BOP pilot program, tribes have submitted requests for five tribal offenders to be confined in BOP facilities. The BOP accepted all five offenders with the federal government assuming the financial burden of housing and caring for the prisoners. The chart above provides a description of each pilot participant.

Section 234(c)(6) of TLOA requires the pilot program to expire four years after its establishment, unless otherwise provided by an Act of Congress. Absent the passage of legislation extending the pilot program, the BOP will be unable to accept additional tribal prisoners into the program after November 29, 2014. However, BOP will continue to house those prisoners previously accepted into the program for the balance of their term of imprisonment.



September 2014

Consultation Question: How should states recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund culturally specific services and activities for underserved populations are distributed equitably among those populations?

Consultation Question: What does it mean for a state to consult with tribes? This includes both whom they should include and how.

Background:

The Services, Training, Officers, Prosecutors (STOP) Violence Against Women Formula Grant Program provides funding to states based on population to improve their criminal justice response and develop and strengthen victim services in cases involving violent crimes against women. Although tribes are not directly eligible for the funding, they can be provided funds through a state as a subgrantee. The program has 20 enumerated purpose areas within the broad purpose stated above and requires that funds be allocated 30% for victim services, 25% for prosecution, 25% for law enforcement, and 5% to courts. Within the victim services allocation, 10% is allocated to culturally specific community-based organizations, including tribal organizations.

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) made numerous significant changes to the STOP statute, two of which may be significant to tribes. First, VAWA 2013 expanded the specified list of entities with which states must consult in deciding how to implement the program; this list now includes tribal governments. Second, VAWA 2013 amended the formula on which STOP funding is based so that tribal populations are included in each state's population.

In December 2013, OVW held a listening session (via telephone and Internet) with tribes, tribal coalitions, and tribal organizations to seek input on the implementation of the VAWA 2013 changes to the STOP Program. Subsequently, OVW issued Frequently Asked Questions (FAQs) specifying that, for states to comply with the consultation requirement regarding tribes, all state and federally recognized tribes must be invited to the table. The FAQs explained that this could be accomplished through a written comment process, conference calls or on-line meetings, or in-person meetings.

OVW is interested in hearing from tribes regarding (1) whether and how their state STOP administering agencies consulted with them during fiscal year 2014; (2) how states might better consult with tribes during their state's STOP Program implementation planning, and (3) how states should include tribes in "equitable" distribution of funds for underserved populations and culturally specific services.

Appendix B – Analysis of FY 2015 OVW Tribal Grant Programs Funding

At past consultation sessions, tribal leaders have requested that DOJ provide a table showing how funds appropriated for tribal programs are spent by OVW. The table below, along with the list of grant recipients in Appendix C, responds to this request.

	Tribal Governments ¹	Tribal Coalitions ²	Tribal Sexual Assault Services ³
FY 2015 Appropriation	\$35,975,000.00	\$6,282,143.00	\$3,000,000.00
Prior Year Carry Forward & Recoveries⁴	\$1,909,002.00	\$54,720.00	\$323,139.00
<i>Technical Assistance & Evaluation Reduction</i>	-\$2,389,382.00	-\$979,465.00	\$0
<i>FY 2015 Rescission⁵</i>	-\$1,909,002.00	-\$54,532.00	-\$323,139.00
<i>Salaries & Expenses Reduction⁶</i>	-\$1,723,685.00	-\$300,999.00	\$0
Amount available for FY 2015 grants	\$30,825,621.00 ⁷	\$5,001,747.00	\$2,959,781
Amount awarded in FY 2015	\$30,819,547.00	\$5,001,728.00	\$2,766,308.00
Remaining balance	\$6,074.00	\$19.00	\$193,473.00

¹ In FY 2015, the Tribal Governments Program was funded through the appropriation for seven other OVW grant programs and did not receive its own appropriation line.

² In FY 2015, the Tribal Coalitions Program was funded through the appropriation for the STOP, Arrest, and Sexual Assault Services Programs and did not receive its own appropriation line.

³ This column includes funding made available specifically for tribal sexual assault activities under the Sexual Assault Services Program appropriation.

⁴ The Prior Year Carry Forward amount includes both funds that were not obligated in the prior year and funds that were deobligated. Deobligated funds and recoveries are funds that are returned after the end of a grant award for any number of reasons.

⁵ The FY 2015 appropriation included a \$16 million rescission of OVW budget authority. This amount was distributed across a number of OVW programs, including the Tribal Governments Program.

⁶ In FY 2015, OVW did not receive an appropriation for management and administration expenses. As a result, OVW assessed the majority of its grant programs to cover management and administration expenses.

⁷ The amount available for FY 2015 awards does not include \$400,000 that was transferred to BJA in order to execute and administer grants under the Comprehensive Tribal Justice System Strategic Planning Purpose Area within CTAS, \$133,673 for Peer Review, and \$542,858 for Special Projects.

Appendix C – FY 2015 OVW Tribal Grant Awards

Grantee	Award Amount	Solicitation
Absentee Shawnee Tribe of Oklahoma	\$900,000.00	FY 15 CTAS 5 TGP
Alabama-Coushatta Tribe of Texas	\$228,945.00	FY 15 CTAS 5 TGP
Alaska Native Justice Center	\$449,978.00	FY 15 CTAS 5 TGP
American Indians Against Abuse, Inc.	\$312,608.00	Tribal Coal FY15
Aroostook Band of Micmacs	\$894,553.00	FY 15 CTAS 5 TGP
Bishop Paiute Tribe	\$749,007.00	FY 15 CTAS 5 TGP
Bristol Bay Native Association, Inc.	\$460,000.00	FY 15 CTAS 5 TGP
Cheyenne and Arapaho Tribes	\$852,590.00	FY 15 CTAS 5 TGP
Chugachmiut, Inc.	\$796,833.00	FY 15 CTAS 5 TGP
Coalition to Stop Violence Against Native Women	\$312,608.00	Tribal Coal FY15
Comanche Nation	\$900,000.00	FY 15 CTAS 5 TGP
Coquille Indian Tribe	\$434,850.00	FY 15 CTAS 5 TGP
Crow Tribe of Indians	\$449,992.00	FY 15 CTAS 5 TGP
DNA People's Legal Services	\$400,000.00	LAV FY 2015
Eastern Band of Cherokee Indians	\$899,981.00	FY 15 CTAS 5 TGP
Eastern Shawnee Tribe of Oklahoma	\$784,000.00	FY 15 CTAS 5 TGP
Eight Northern Indian Pueblos Council, Inc.	\$600,000.00	LAV FY 2015
Emmonak Women's Shelter	\$450,000.00	FY 15 CTAS 5 TGP
First Nations Women's Alliance	\$312,608.00	Tribal Coal FY15
Grand Traverse Band of Ottawa and Chippewa Indians	\$361,911.00	Arrest FY 2015
Haudenosaunee Coalition for Women's Empowerment	\$312,608.00	Tribal Coal FY15
Hopi-Tewa Women's Coalition to End Abuse	\$312,608.00	Tribal Coal FY15
Hopland Band of Pomo Indians	\$715,000.00	FY 15 CTAS 5 TGP
Iowa Tribe of Kansas and Nebraska	\$449,741.00	FY 15 CTAS 5 TGP
Iowa Tribe of Oklahoma	\$299,829.00	TSASP FY 2015
Kawerak, Inc.	\$447,701.00	FY 15 CTAS 5 TGP
Kewa Pueblo	\$449,805.00	FY 15 CTAS 5 TGP
Lac Courte Oreilles Band of Lake Superior Chippewa	\$888,062.00	FY 15 CTAS 5 TGP
Lac du Flambeau Band of Lake Superior Chippewa Indians	\$900,000.00	FY 15 CTAS 5 TGP
Lac du Flambeau Band of Lake Superior Chippewa Indians	\$300,000.00	TSASP FY 2015
Little Traverse Bay Bands of Odawa Indians	\$629,692.00	FY 15 CTAS 5 TGP
Little Traverse Bay Bands of Odawa Indians	\$350,000.00	Housing FY 2015
Los Coyotes Band of Indians	\$450,000.00	FY 15 CTAS 5 TGP
Makah Tribe	\$883,800.00	FY 15 CTAS 5 TGP
Maniilaq Association	\$295,546.00	TSASP FY 2015
Mending the Sacred Hoop	\$312,608.00	Tribal Coal FY15
Menominee Indian Tribe of Wisconsin	\$793,461.00	FY 15 CTAS 5 TGP

Menominee Indian tribe of Wisconsin	\$315,000.00	Elder FY 2015
Mississippi Band of Choctaw Indians	\$325,000.00	TSASP FY 2015
Montana Native Women's Coalition	\$312,608.00	Tribal Coal FY15
Morongo Band of Mission Indians	\$358,056.00	FY 15 CTAS 5 TGP
Native Alliance Against Violence, Inc.	\$312,608.00	Tribal Coal FY15
Native Village of Old Harbor	\$436,136.00	FY 15 CTAS 5 TGP
Native Women's Coalition	\$312,608.00	Tribal Coal FY15
Native Women's Society of the Great Plains	\$312,608.00	Tribal Coal FY15
Nottawaseppi Huron Band of the Potawatomi	\$389,220.00	FY 15 CTAS 5 TGP
Oglala Sioux Tribe Department of Public Safety	\$440,000.00	FY 15 CTAS 5 TGP
Omaha Nation Community Response Team	550,000.00	Rural FY 2015
Osage Nation of Oklahoma	\$877,882.00	FY 15 CTAS 5 TGP
Penobscot Nation	\$876,889.00	FY 15 CTAS 5 TGP
Ponca Tribe of Nebraska	\$620,000.00	Rural FY 2015
Pribilof Islands Aleut Community of St. Paul Island	\$349,993.00	Housing FY 2015
Pribilof Islands Aleut Community of St. Paul Island	\$594,743.00	Rural FY 2015
Pueblo of Jemez	\$877,403.00	FY 15 CTAS 5 TGP
Pueblo of Nambe	\$440,675.00	FY 15 CTAS 5 TGP
Pueblo of Pojoaque	\$375,735.00	FY 15 CTAS 5 TGP
Pyramid Lake Paiute Tribe	\$300,000.00	TSASP FY 2015
Pyramid Lake Paiute Tribe	\$500,000.00	Rural FY 2015
Quapaw Tribe of Oklahoma	\$449,420.00	FY 15 CTAS 5 TGP
Quechan Indian Tribe	\$436,260.00	FY 15 CTAS 5 TGP
Quileute Tribe	\$377,666.00	FY 15 CTAS 5 TGP
Red Lake Band of Chippewa Indians	\$899,053.00	FY 15 CTAS 5 TGP
Restoring Ancestral Winds, Inc.	\$312,608.00	Tribal Coal FY15
Round Valley Indian Tribes	\$444,731.00	FY 15 CTAS 5 TGP
Sacred Heart Center	\$275,338.00	TSASP FY 2015
Saint Regis Mohawk Tribe	\$370,714.00	TSASP FY 2015
Salish Kootenai College	\$300,000.00	Campus FY 2015
San Pasqual Band of Mission Indians	\$450,000.00	FY 15 CTAS 5 TGP
Santee Sioux Nation of Nebraska	\$449,508.00	FY 15 CTAS 5 TGP
Seneca Nation of Indians	\$275,440.00	FY 15 CTAS 5 TGP
Shoshone-Bannock Tribes	\$732,763.00	FY 15 CTAS 5 TGP
Shoshone-Paiute Tribes of Duck Valley	\$406,828.00	FY 15 CTAS 5 TGP
Southwest Indigenous Women's Coalition	\$312,608.00	Tribal Coal FY15
Strong Hearted Native Women's Coalition Inc.	\$312,608.00	Tribal Coal FY15
Sun'aq Tribe of Kodiak	\$567,699.00	FY 15 CTAS 5 TGP
Tetlin Tribal Council	\$450,000.00	FY 15 CTAS 5 TGP
The Chickasaw Nation	\$898,685.00	FY 15 CTAS 5 TGP
The Klamath Tribes	\$450,000.00	FY 15 CTAS 5 TGP

The Suquamish Tribe	\$570,775.00	FY 15 CTAS 5 TGP
The Tuolumne Band of Me-Wuk Indians	\$449,989.00	FY 15 CTAS 5 TGP
The Yup'ik Women's Coalition	\$312,608.00	Tribal Coal FY15
Three Affiliated Tribes/Fort Berthold	\$300,000.00	TSASP FY 2015
Uniting Three Fires Against Violence	\$312,608.00	Tribal Coal FY15
Wampanoag Tribe of Gay Head (Aquinnah)	\$446,798.00	FY 15 CTAS 5 TGP
Washington State Native American Coalition	\$312,608.00	Tribal Coal FY15
White Earth Band of Chippewa Indians	\$299,881.00	TSASP FY 2015
Wiconi Wawokiya, Inc.	\$550,000.00	Rural FY 2015
Wyandotte Nation	\$233,945.00	FY 15 CTAS 5 TGP
Zuni Tribe	\$900,000.00	FY 15 CTAS 5 TGP
TOTAL	\$43,755,630.00	



Select Tribal Crime and Justice Research & Evaluation Studies

NIJ's Program of Research Examining Violence Against American Indian and Alaska Native Women living in Indian Country and Alaska Native villages

Despite compelling indications that rates of violence against American Indian (AI) and Alaska Native (AN) women merit serious attention, there is a dearth of solid, scientific research regarding their victimization experiences. Accurate, comprehensive, and current information on the incidence, prevalence, and nature of intimate partner violence, sexual violence, and stalking in Indian country and Alaska Native villages is critically needed to improve our understanding of the programmatic, service, and policy needs of victims and to educate and inform policymakers and the public about this pervasive threat to the health and well-being of AI and AN women.

Title IX, Section 904(a) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Pub. Law No. 109-162 (codified at 42 U.S.C. § 3796gg-10 note), as amended by Section 907 of the Violence Against Women Reauthorization Act, Pub. L. No. 113-4, mandates that the National Institute of Justice (NIJ), in consultation with the U.S. Department of Justice's (USDOD) Office on Violence Against Women (OVW), conduct a National Baseline Study on violence against AI and AN women living in tribal communities. As a result, NIJ has developed a comprehensive research program consisting of multiple projects that will be accomplished over an extended period of time.

The purpose of NIJ's Violence Against Indian Women (VAIW) research program is to: examine violence against AI and AN women (including domestic violence, dating violence, sexual assault, stalking, sex trafficking, and murder) and identify factors that place AI and AN women at risk for victimization; evaluate the effectiveness of federal, state, tribal, and local responses to violence against AI and AN women; and propose recommendations to improve effectiveness of these responses. For more on NIJ's program, see <http://nij.gov/topics/tribal-justice/vaw-research/Pages/welcome.aspx>.

NIJ Directed & Funded Research & Evaluation

National Baseline Study to Examine Violence Against Indian Women living in Indian Country

Phase I: Violence Against Indian Women (VAIW) in Indian Country Pilot Study (2009-2012)

NIJ directed a research methods pilot study. This study was developed with input from tribal stakeholders to help ensure that NIJ's forthcoming National Baseline Study (NBS) would be viable, culturally and community appropriate, respectful of those involved, and that the



information collected would be relevant and helpful. With the approval of tribal leadership, several tribal communities were selected and agreed to pilot test the VAIW survey and methods for selecting and recruiting survey participants. The VAIW pilot study was conducted from November 2011 through March 2012.

Phase II: National Baseline Study Examining Violence Against American Indian and Alaska Native Women Living in Tribal Communities (2014 to 2017)

The National Baseline Study (NBS) seeks better information on domestic violence, sexual violence, and stalking perpetrated against AI and AN women living on tribal lands and in Alaska Native communities. Under the direction of NIJ, the National Baseline Study Research Contractor¹ (NBSRC) and the National Baseline Study Data Center Contractor² (NBSDCC) have implemented a study of public safety and public health among AI and AN women living in tribal communities consistent with the general approach and methods developed for the NIJ VAIW pilot study.

The NBS was officially implemented in May of 2014. This 42-month study will be conducted in geographically dispersed tribal communities across the U.S. (lower 48 and Alaska) using a NIJ-developed sampling strategy for which the primary aim is to provide an accurate *national* victimization rate of violence committed against AI and AN women. The multistage sampling plan provides a practical and accurate approach that will involve enlisting the largest number of federally recognized tribes ever undertaken to date (providing for at least one tribe in each Indian Health Service (IHS) region and sampling proportional to size within region) and randomly selecting tribal households from each participating tribe in which all adult AI and AN women (i.e., 18 years and older) in the household will be approached to participate in the study.

At this time, all randomly selected tribal sites have been contacted directly by NIJ with follow-up visits conducted with the tribal government and program staff for in-person government-to-government engagement. The research team is paying close attention and adhering to the governance protocols of each tribal community ensuring tribal resolutions or executive orders are obtained, tribal Institutional Review Board applications are submitted and approved, and participatory agreements are attained from all appropriate tribal authorities. Once again, ensuring we are honoring tribal sovereignty and our commitment to community-based research principals.

¹ Awarded to American Indian Development Associates, LLC; Contract No. DJO-NIJ-14-D-0071.

² Awarded to Research Triangle Institute (RTI) International; Contract No. GS-10F-0097L DJO-NIJ-14-G-0081.



NIJ Tribal Visiting Executive Research Fellowship Capstone Project: Lifetime prevalence of interpersonal and sexual violence of self-identified AI and AN men and women living in the U.S. (2012-2016)

To complement NIJ's VAIW program of research, NIJ partnered with the Centers for Disease Control and Prevention (CDC) to conduct a special study of AI and AN people using CDC's National Intimate Partner and Sexual Violence Survey (NISVS). CDC's National Center for Injury Prevention and Control launched the NISVS general population study in 2010. The primary objectives of this national study are to describe: (1) the prevalence and characteristics of sexual violence, stalking, and intimate partner violence (IPV); (2) who is most likely to experience these forms of violence; (3) the context in which sexual violence, stalking, and IPV are experienced; and (4) the consequences and impacts of these forms of violence.

Like NISVS, the AI and AN NISVS study was conducted using a random digit dial telephone survey of the noninstitutionalized U.S. population age 18 or older. For this study, the landline phone numbers included were in telephone exchanges associated with at least 50 percent self-identified AI and AN populations, in any of the 50 states and the District of Columbia.

Dr. André Rosay, NIJ Visiting Executive Research Fellow, and Director of the Justice Center at the University of Alaska, Anchorage, has been conducting analyses of these data. The analysis in this report provides information from 2,473 women and 1,505 men who identified themselves as AI and AN (alone or in combination with another racial group). Most women (83%) and most men (79%) were affiliated or enrolled with a tribe or village. Over half of both women and men (54%) had lived within reservation boundaries or in an Alaska Native village in the past year.

This NIJ report is expected to be released in early 2016. It examines the prevalence of violence against AI and AN women and men. More specifically, it provides estimates of sexual violence victimization, physical violence by intimate partners, stalking victimization, and psychological aggression by intimate partners. It also provides estimates of interracial and intra-racial victimizations and it briefly examines the impact of violence victimization.

FBI's Response to Violence Against Women in Indian Country in Fiscal Year 2008: A Case File Review (2009 to 2013)

NIJ and the FBI's Indian Country Crimes Unit (ICCU) partnered to examine the FBI's response to violence against women in Indian country.³ NIJ and the FBI were interested in obtaining baseline statistics about the:

- Number of cases opened, pending, and closed in Fiscal Year (FY) 2008 in Indian country.

³ As defined by 18 U.S.C. § 1151.



- Percentage and nature of those cases that involve a form of violence against adult Native American women.
- Responses and strategies used by the FBI to investigate these cases.

This study examined all death investigation, domestic violence, rape, and assault cases perpetrated by a current or former intimate partner against an adult female victim. The analysis was restricted to case files that included violent crimes that were committed against adult female victims (age 18 or older) opened between October 1, 2007 and September 30, 2008. In this study, the research team recorded information on final case dispositions based on the documentation in each FBI case file. That is, outcomes were based on the information on USAO's actions as documented in the FBI case file.

In FY 2008, the FBI opened a total 1,556 violent crime cases in Indian country. Almost one-fifth of these cases were death investigations (including homicides), rape cases, domestic violence, or intimate partner-perpetrated assault cases that included adult female victims. Among these cases with adult female victims, there were 37 death investigations, 133 rape cases, 23 domestic violence cases, and 59 intimate partner perpetrated assault cases. The Minneapolis, Phoenix, and Salt Lake City divisions opened the majority of cases included in this study. The higher relative proportion of cases in these three divisions was primarily due to the amount of Indian country land covered by those divisions and not necessarily due to higher crime rates per capita.

An additional benefit of this research was the level of context the findings provided regarding the challenges in investigating and prosecuting these cases. The results of this study represent the first long term, in-depth look across cases, which will be used to inform the current state of knowledge as well as advance future efforts to better understand violence against women in Indian country.

Federal and Tribal Response to Violence Against Women in Indian Country Study (2012 to 2013)

NIJ collected detailed information on federal and tribal responses to sexual violence, intimate partner violence, and stalking of AI and AN women living in tribal communities. The study involved several complementary data collection activities, including face-to-face interviews with federal and tribal agency representatives responsible for investigating and prosecuting these crimes — including tribal law enforcement officers and prosecutors; FBI special agents and victim specialists; members of the U.S. Attorney's Office (USAO) including tribal liaisons and victim/witness staff; and Bureau of Indian Affairs agents, criminal investigators, and victim specialists — and documenting district policies, training, and outreach efforts.



Select Findings from Federal and Tribal Staff (non-PL 280 states)

Interagency communication and collaboration

- Personal relationships of employees across agencies impact frequency and value of communication about cases.
- Study participants indicated they tend to have quicker and more frequent contact with staff if they have a good personal relationship with the individual.
- These relationships have important implications for case processing and outcomes (i.e., communication affects how or when a case is resolved).
- There is great deal of confusion regarding roles and expectations; some staff said they have no communication with some agencies despite their attempts to establish a working relationship.
- The establishment of Memorandum of Understandings may assist with the delineation of responsibility amongst federal and tribal agencies but few exist.

Underreporting of crimes against women in Indian country

- There was a consistent belief that these crimes are underreported.
- Community members have a lack of trust in the criminal justice and tribal justice systems and think they have nowhere to turn if they are a victim of crime, or that nothing will be done if they report a crime.
- Heavy caseloads and low numbers of staff lead to slow response times.
- There is divergence between federal and tribal agencies regarding efforts to increase reporting or awareness of crimes against women in their jurisdictions—tribal respondents were more likely to report involvement in such efforts.

Declinations

- Quality of the investigation and documentation by law enforcement affects the quality of cases sent to Assistant U.S. Attorneys (AUSA).
- Frequency of declinations appears to be AUSA-dependent; cases are typically declined due to lack of evidence.
- Reducing declinations would require an effort to improve the quality of both law enforcement and prosecution staff who are dedicated to their positions in Indian country, as well as increasing training for law enforcement on how to properly document their investigation.

Training

- There is an overall perception that training opportunities are limited.
- Training should be focused on the topics of jurisdiction, evidence collection and processing, report writing, self-care/vicarious trauma, interviewing and interrogation, and Native American culture.



State and Tribal Response to Violence Against Women in Indian Country Study (2013 to 2014)

This study investigated the state response, in part, by interviewing tribal law enforcement, prosecutors, and victim advocates as well as state law enforcement, prosecutors, and victim services staff in Public Law 280 states. The purpose of these interviews were to obtain information about their experiences responding to crimes committed against Indian women, what is going well, what could be improved, and to learn about any promising practices in the field. This study used similar methods and instruments used in the *Federal and Tribal Response Study*.

Select Findings from State and Tribal Staff (PL 280 states)

Underreporting of crimes against women in Indian country

- Most study participants said these crimes are underreported; however, it is not a problem exclusive to Indian country, but exacerbated due to fear of retaliation, sense of shame, victim's continued involvement with alleged perpetrator, and desire to keep the matter within the community.
- Another reason for low reporting rates include slow response time (rural locations; travel time; weather conditions) and a lack of confidence in law enforcement.
- Reporting may increase if tribal communities had a relationship and regular interaction with law enforcement officers that respond to crimes in their area.

Declinations

- Most study participants stated they do not feel prosecutors unfairly or disproportionately decline cases involving crimes against women in Indian country.
- Cases are typically declined due to a lack of evidence and lack of victim participation in the case's investigation and/or prosecution.
- It was suggested more thorough investigations and reports from law enforcement may help reduce declinations.

Training

- Amount and frequency of training was dependent on the state and the respondent's position.
- New prosecutors received the least amount of training.
- Participants indicated training should be focused on the topics of evidence collection, domestic violence and sexual assault, report writing, self-care and preventing burnout, Public Law 280, and Native American culture. Moreover, trainings should be tailored to the person's role (patrol officers vs. investigators).

Resource Needs

- More staff with a desire to work in Indian country is needed at all levels.
- More victim services are need and should be located on or near reservations.



- More cross-deputization of tribal police should occur to increase police coverage and provide better services on tribal lands.
- Rural law enforcement stations should be established.
- Law enforcement and victim service providers discussed problems associated with relying on grant funding to fund positions, programs, and initiatives that do not have short and long-term sustainability other than federal funding.

Tribal Special Assistant United States Attorney (SAUSA) Program Evaluability Assessment

The purpose of this evaluability assessment was to gauge whether the Tribal SAUSA program, funded in 2012 by the Office on Violence Against Women, was ready and able to be evaluated. The program allows state-licensed prosecutors to be “cross-designated” into federal court, permitting them to present violence against women cases in tribal and/or federal court with the goal of filling gaps in jurisdictional coverage; increasing communication and coordination with tribal, federal, and state law enforcement agencies; establishing consistent relationships between federal prosecutors and tribal communities; and improving the quality of violence against women cases through training and best practices.

Data gathered during a review of the program’s documentation, interviews with key staff, and site visits, show the program is close to being ready for an evaluation, should the program address issues of funding, sustainability, and data availability and reliability. Anecdotal information indicates that positive and successful partnerships have been developed, which is a key goal of the program. If the program is extended and/or expanded, a process evaluation that incorporates a qualitative component is possible in the future. A process evaluation could provide valuable information about the program’s operation and context and could inform the results of a future outcome evaluation, if one is conducted. Information gained from a process evaluation could be fed back into the program to improve it in the current and/or future sites.

NIJ Funded Investigator-Initiated Tribal Research & Evaluation

The Oklahoma Lethality Assessment Program: An Experimental Study

The purpose of this quasi-experimental research was to examine the effectiveness of the Lethality Assessment Program (LAP). The LAP is a collaborative intervention between police and advocates implemented at the scene of a domestic violence incident consisting of two steps. First, a police officer responding to the scene of a domestic violence incident uses a brief 11-item risk assessment (the Lethality Screen) to identify victims at high risk of homicide. Second, women that screen in as high risk based on the Lethality Screen are put in immediate telephone contact with a collaborating social service provider who provides them with advocacy, safety planning, and referral for services.

While additional research needs to be conducted, the LAP study demonstrates promise as an evidence informed collaborative police-social service intervention that increases survivors’ safety and empowers them toward decisions of self-care. The research team presented findings and the implications for Native American victims of IPV based on a subsample of American



Indian women who participated in the Oklahoma study at the 14th Indian Nations Conference. They also described how the Domestic Violence Risk Assessment, including the Danger Assessment Circle, were created specifically for indigenous women. For a copy of the research technical report, please go to the National Criminal Justice Reference Service (NCJRS) website and search for [NCJ 247456](#).

Process Evaluation of the Attorney General's Children Exposed to Violence Demonstration Program: Defending Childhood Initiative

Building on lessons learned from previously funded research and programs such as Safe Start, the Child Development-Community Policing Program, and the Greenbook Initiative, Defending Childhood leverages existing resources across the USDOJ to focus on preventing, addressing, reducing, and more fully understanding childhood exposure to violence. In 2010, USDOJ awarded grants to eight sites in cities and two tribal communities around the country to develop strategic plans for comprehensive community-based efforts that would further demonstrate the goals of this initiative. Researchers from the Center for Court Innovation worked with two Native American communities (i.e., the Rosebud Sioux and the Chippewa Cree/Rocky Boy Tribes) as part of the Attorney General's Defending Childhood Initiative. These process evaluations allowed the research team to provide a rich account of what each local site's initiative looked like.

At the 14th Indian Nations Conference, the research team presented findings from the cross-site evaluation's community survey, and highlighted the work addressing children's exposure to violence in these tribal communities as well as knowledge of and attitudes towards children's exposure to violence. They also described the models used by the two tribes to prevent, treat, and raise awareness about children's exposure to violence, emphasizing the role of culture. The final reports provide recommendations for other Native American communities looking to prevent, treat, and raise awareness about children's exposure to violence. For a copy of these research technical reports, please go to the NCJRS website and search for NCJ [248933](#) and NCJ [248932](#).

An Innovative Response to an Intractable Problem: Using Village Public Safety Officers to Enhance the Criminal Justice Response to Violence Committed Against Indian Women in Alaska's Tribal Communities (2013-2016)

The purpose of the study is to contribute directly to NIJ's efforts to evaluate state and tribal responses to violence against Indian women in tribal communities. Using detailed case file reviews and focus group discussions with Village Public Safety Officers (VPSO), as well as community and criminal justice stakeholders, this project will examine the contributions VPSOs make to the community and criminal justice responses to violence committed against Indian women in Alaska's tribal communities. Specific attention will be paid to the impact VPSOs have on the investigation of domestic violence, sexual assault, sexual abuse of a minor, and homicide cases, as well as the extent to which VPSOs facilitate the prosecution of those who commit violence against Indian women in Alaska's tribal communities. The overarching goal of the



proposed project is to evaluate and document empirically the impact Alaska's VPSO initiative is having on the investigation and prosecution of those who commit acts of sexual and domestic violence, as well as homicide, against Indian women in Alaska's tribal communities. Finally, this research will assess the potential transferability of the VPSO model to other tribal communities in the lower 48.

For the 2008-2011 study period, information pertaining to the case processing (investigation and prosecution) of an estimated 800 domestic violence, 750 sexual assault, 670 sexual abuse of a minor, and 25 homicide case files have been coded and are being analyzed. Case file coding included the characteristics of suspects, victims, witnesses/third parties, as well as investigating officers. Focus groups are being conducted with groups of 10-20 individuals in four (4) research sites, as well as with small groups (8-10 individuals) of VPSOs, VPSO Coordinators, Alaska State Trooper (AST) Oversight Staff, and state prosecutors.

The final research report from the University of Alaska Anchorage research team is expected to provide a comprehensive overview of the project, a full presentation of the study's findings situated within the broader research literature, and a thorough discussion of the implications of the study's findings for criminal justice practice and policy.

Exploratory Research on the Impact of the Growing Oil Industry in North Dakota and Montana on Domestic Violence, Dating Violence, Sexual Assault, and Stalking (2014-2016)

The purpose of this study is to examine the impact of the Bakken oil development on domestic violence, dating violence, sexual assault, and stalking. Specifically, the impact of increased interpersonal violence, or perceptions of an increase, will be studied. It is anticipated that this empirical research will help government officials and policymakers, legal and criminal justice officials, oil industry executives, and health and human service professionals develop policies and best practices to address interpersonal violence in the oil patch.

The following research questions are being examined. How extensive is the increase in domestic violence, dating violence, sexual assault, and stalking? Is it uniform across the region? Are changes commensurate with population growth? What are the characteristics of victims and offenders? How have these changes impacted the lives of individuals and the communities in which they reside? What policies have been effective to address interpersonal violence in the oil patch?

Informed by a preliminary study of this topic by the Principal and Co-Principal Investigators, the research team from the University of North Dakota has implemented a multidisciplinary, mixed-method exploratory study. The quantitative component includes a trend analysis of secondary data from 2002-2014 on the incidence and distribution of these interpersonal crimes in 33 oil-impacted counties and two reservations in North Dakota (ND) and Montana (MT), including geo-mapping. This analysis also includes t-test comparisons with non-impacted counties to



determine if changes are unique to oil boom communities. The support of several local and state agency directors to gather supplementary secondary data were secured and data gathered. Established laws and policies also are being examined from a victim-based policy perspective.

The qualitative component of this study includes five focus groups with elected officials, attorneys and law enforcement; victim service providers; health and human service workers; community members; and tribal members in oil-impacted communities. In addition, more than 80 qualitative interviews with key informants including victims, community members, first-responders, clergy, law enforcement, hospital personnel, social service workers, school principals, victim service providers, local and state attorneys, elected officials, and oil industry leaders have been conducted.

Upon study completion, presentations, reports, and recommendations will be submitted to the key stakeholders, including law enforcement, health/human service providers, and local government officials as well as national, state, and local violence against women coalitions. Key stakeholders will be asked to post summaries of findings on their webpages and place one-page flyers in public spaces to increase access to findings by residents of impacted communities. Finding also will be shared with state policymakers, including state Legislative Councils, the North Dakota Governor, the Montana Governor, and the U.S. Congressional Delegations of ND and MT. In addition, findings will be shared with tribal leaders from participating tribes, Attorney Generals in ND and MT, U.S. Attorneys in ND and MT; injury prevention staff at the ND Department of Health and MT Department of Health and Human Services, the MT and ND Supreme Courts, and oil industry leaders.

Effective Methods to Assess Exposure to Violence and Victimization among American Indian and Alaska Native Youth (2015-2017)

There has never been a national study of tribal youth regarding their victimization experiences that provides reliable, valid estimates of the scope of the problem. As a result, the incidence, prevalence, and nature of victimization experienced by AI and AN youth living in tribal communities is unknown. NIJ, in partnership with the Office of Juvenile Justice and Delinquency Prevention and the Office for Victims of Crime, is funding a 30-month study intended to improve the health and well-being of AI and AN youth by developing and testing a survey instrument and different administration modes that can effectively assess exposure to violence and victimization and to determine the feasibility of using these procedures in tribal communities and settings.

The project involves five stages: 1) assembling and acquiring input from stakeholders; 2) reviewing existing instruments; 3) developing the instrument, design, and implementation protocols; 4) conducting cognitive testing of the instrument to assure comprehension; 5) and pilot testing of the instrument and modes of delivery. The goal for the instrument is to be comprehensive and include measures of exposure to abuse, neglect, sexual offenses, property



crimes, hate crimes, bullying, peer and school assault, and exposure to domestic and community violence.

The sample includes tribal youth 12 to 20 years of age. Cognitive testing will be conducted in four tribal communities (one in Alaska and three in the lower 48). The pilot test involves the use of at least two but no more than three different administration modes (e.g., face-to-face interviews, self-administered questionnaire in paper and pencil format, audio computer assisted self-administered interviews, computer assisted telephone interviews).

Among the key outcomes that will be examined are the response and refusal rates, missing data, interview length, willingness to disclose sensitive information, respondent comfort, cost, the ability to provide assistance to respondents, and the ease and adequacy of the human subjects' protocol.

Any questions about NIJ's VAIW program or any of the studies described above should be directed to:

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Appendix E – Tribal Access Program for National Crime Information



TRIBAL ACCESS PROGRAM

FOR NATIONAL CRIME INFORMATION
ENSURING THE EXCHANGE OF CRITICAL DATA

OVERVIEW

The U.S. Department of Justice (DOJ) has established the Tribal Access Program for National Crime Information (TAP) to provide tribes access to national crime information databases for both civil and criminal purposes. TAP will allow tribes to more effectively serve and protect their nation's citizens by ensuring the exchange of critical data.

The Federal Bureau of Investigation (FBI) is home to the Criminal Justice Information Services (CJIS) Division. CJIS manages and operates databases used by the public safety community for both criminal and civil purposes. Agencies across the United States submit information to, and obtain information from, CJIS systems. This exchange of information is essential to public safety.

The FBI maintains the host systems and provides a telecommunication network to one CJIS Systems Agency (CSA) in each of the 50 states, the District of Columbia, territories, Canada, and federal agencies, including DOJ. CSAs provide access to CJIS systems as well as Nlets, a state-owned justice and public safety information network that queries state, federal, and Canadian databases.

CJIS SYSTEMS INCLUDE:

- National Crime Information Center (NCIC) – a criminal records database allowing criminal justice agencies to enter or search for information about stolen property, missing or wanted persons, domestic violence protection orders; criminal histories; and the National Sex Offender Registry among other things.
- Next Generation Identification (NGI, formerly known as the Integrated Automated Fingerprint Identification System, IAFIS) – a database of finger/palm prints and mugshots allowing verification of identity, submissions of arrest information, and access to fingerprint-based criminal histories.
- National Data Exchange (N-DEx) – a national investigative information sharing system providing access to records from across the nation to aid in criminal investigations. Investigators have access to review criminal justice data from state, local, tribal, regional, and federal agencies, 24/7, from any secure Internet-capable device. Data includes incident reports, arrest reports, booking and incarceration reports, and pre-trial investigations, and probation and parole records.
- National Instant Criminal Background Check System (NICS) – a system used by Federal Firearms Licensees (FFL) to determine whether a person is eligible to possess firearms or explosives. Tribes can contribute information to ensure prohibited persons are prevented from purchasing firearms; use NICS to determine whether to issue firearms or explosive-related permits; or when returning firearms seized during criminal investigations.
- Law Enforcement Enterprise Portal (LEEP) – a gateway for criminal justice agencies to access unclassified law enforcement intelligence products, as well as systems or services such as N-DEx, Intelink, the Regional Information Sharing Systems Network (RISSNET), National Gang Intelligence Center, eGuardian, Virtual Command Center, and others.

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FOR NATIONAL CRIME INFORMATION
ENSURING THE EXCHANGE OF CRITICAL DATA

CJIS systems are available to the criminal justice community, including law enforcement, jails, prosecutors, courts, as well as probation and pretrial services. CJIS systems also are available to non-criminal justice agencies for specifically authorized civil purposes, including background checks for employment, licensing, child placement, housing, or other purposes.

DOJ has established TAP to ensure tribes have access to these systems and databases. TAP will assist tribes in analyzing their needs and help identify and provide appropriate solutions. In addition, DOJ will serve as a CSA for federally-recognized tribes. One possible solution is a TAP kiosk, a state-of-the-art biometric station equipped with camera, printer, and finger/palm

print scanner that allows access through DOJ to CJIS systems for both criminal and civil purposes.

TAP will provide 24x7 support and training for tribes.

In order to participate, tribes must have Internet access and agree to comply with security, training, and auditing requirements. For civil uses, tribes must be authorized to access CJIS services for intended purpose(s) and execute a user fee Memorandum of Understanding (MOU) with CJIS to pay user fees. Tribes will be required to make legislative or policy determinations about what information they share with national databases and how to best utilize TAP to benefit their nation.

Interested tribes should submit a letter from their governing body to tribalaccess@usdoj.gov and designate a primary and secondary point of contact. The same address can be used should the tribe have any questions or wish to learn more about the program.

DOJ recognizes that some tribes have access to certain CJIS systems through state CSA networks. In that instance, DOJ encourages a three-way discussion with the tribe and the state CSA about their information needs.

TRIBAL ACCESS PROGRAM FOR NATIONAL CRIME INFORMATION

WWW.USDOJ.GOV/TRIBAL/TAP/
TRIBALACCESS@USDOJ.GOV



U.S. Department of Justice