



U.S. Department of Justice

Office on Violence Against Women

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Washington, D.C. 20530

April 2, 2019

Dear Tribal Leader,

On behalf of the Office on Violence Against Women (OVW) and the United States Department of Justice, I would like to thank each of you who were able to join us for our 13<sup>th</sup> Annual Government-to-Government Tribal Consultation on August 21-22, 2018, in Sioux Falls, SD. We are truly grateful to the many representatives from across Indian Country who were able to share their recommendations and concerns about violence against American Indian and Alaska Native women. We are also grateful to those of you who took the time to submit written recommendations to OVW about how the U.S. Department of Justice and other federal agencies can help improve the federal response to violence against Indian women.

Please find enclosed a copy of the 2018 Government-to-Government Violence Against Women Tribal Consultation Report, which summarizes the recommendations that OVW received from tribal leaders at last year's consultation. OVW remains committed to supporting the efforts of tribal governments to respond to violence against women and depends on the recommendations received from tribal leaders to guide our work in tribal communities.

OVW is currently planning the 2019 Government-to-Government Violence Against Women Tribal Consultation to be held August 21-22, 2019, in New Buffalo, Michigan. If you have any questions or comments regarding the 2018 report, please contact OVW's Deputy Director for Tribal Affairs, Sherriann Moore at [Sherriann.Moore@usdoj.gov](mailto:Sherriann.Moore@usdoj.gov) or (202) 514-8804.

Sincerely,

A handwritten signature in blue ink that reads "Katharine T. Sullivan".

Katharine T. Sullivan  
Acting Director

UNITED STATES DEPARTMENT OF JUSTICE



# Office on Violence Against Women

TRIBAL CONSULTATION  
2018

«» ANNUAL REPORT »»



WORKING TOGETHER TO END THE VIOLENCE

U.S. Department of Justice  
Office on Violence Against Women

2018 Tribal Consultation Report

Sioux Falls, SD

August 21–22, 2018

# Acronyms and Definitions

<b>Acronym</b>	<b>Definition</b>
<b>AFN</b>	Alaska Federation of Natives
<b>ANWRC</b>	Alaska Native Women's Resource Center
<b>BIA</b>	Bureau of Indian Affairs
<b>CFR</b>	Court of Federal Regulations
<b>CJIS</b>	Criminal Justice Information System
<b>COPS</b>	Office of Community Oriented Policing Services
<b>CTAS</b>	Coordinated Tribal Assistance Solicitation
<b>DOI</b>	U.S. Department of the Interior
<b>DOJ</b>	U.S. Department of Justice
<b>FBI</b>	Federal Bureau of Investigation
<b>FVPSA</b>	Family Violence Prevention and Services Act
<b>HHS</b>	U.S. Department of Health and Human Services
<b>IHS</b>	Indian Health Service
<b>LAV</b>	Legal assistance for victims
<b>LGBTQ</b>	Lesbian, gay, bisexual, transgender, and queer
<b>NCAI</b>	National Congress of American Indians
<b>NCIC</b>	National Crime Information Center
<b>NICS</b>	National Instant Criminal Background Check System
<b>NIJ</b>	National Institute of Justice
<b>NIWRC</b>	National Indigenous Women's Resource Center
<b>OJP</b>	Office of Justice Programs
<b>OVC</b>	Office for Victims of Crime
<b>OVW</b>	Office on Violence Against Women
<b>P.L.</b>	Public Law
<b>SANE</b>	Sexual assault nurse examiner
<b>SAUSA</b>	Special assistant U.S. attorney
<b>SDVCJ</b>	Special domestic violence criminal jurisdiction
<b>SORNA</b>	Sex Offender Registration and Notification Act
<b>STOP</b>	Services, Training, Officers, Prosecutors (STOP) Violence Against Women formula grant
<b>SURVIVE Act</b>	Securing Urgent Resources Vital to Indian Victim Empowerment Act
<b>TAP</b>	Tribal Access Program
<b>TLOA</b>	Tribal Law and Order Act
<b>TTA</b>	Training and technical assistance
<b>U.S.C.</b>	U.S. Code
<b>VAWA</b>	Violence Against Women Act
<b>VOCA</b>	Victims of Crime Act

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## Disclaimers

This document is a summary of testimony provided at the 2018 OVW Tribal Consultation, held pursuant to Public Law 109-162, Title IX, Section 903 of the Violence Against Women Reauthorization Act of 2005, as amended. The document itself has no force or effect of law and does not create any legally binding rights or obligations binding on persons or entities. This document does not reflect the opinion or position of the Department of Justice; rather, it provides a comprehensive overview of two days of testimony and dialogue at the 2018 Government-to-Government Consultation.

The complete transcript for the 2018 Tribal Consultation is available upon request. Please note hard copy requests may incur a charge for printing.

## Introduction

The Violence Against Women Act (VAWA), passed in 1994, established a framework for the federal government to respond to violence against women and improve services for victims of violent crimes. VAWA was reauthorized in 2000, 2005, and 2013. The 2005 and 2013 reauthorizations include provisions specifically designed to address violence against American Indian and Alaska Native (AI/AN) women. VAWA authorizes programs and funding streams that help protect AI/AN women and promote justice in tribal communities.

In acknowledgement of tribal sovereignty, VAWA requires the Attorney General to conduct government-to-government consultations with tribal nations regarding how to support tribes in increasing their capacity to respond to crimes against women and how to best administer VAWA funds and programs to meet tribal needs. The U.S. Departments of Justice (DOJ), Health and Human Services (HHS), and the Interior (DOI) participate in annual tribal consultations to seek recommendations from tribal nations regarding:

- Enhancing the safety of AI/AN women from domestic violence, dating violence, sexual assault, stalking, and sex trafficking;
- Strengthening the federal response to these crimes; and
- Administering funds and programs for tribal governments established by VAWA and subsequent legislation.

To gather tribal feedback, the DOJ Office on Violence Against Women (OVW) and other federal partners hold an Annual Government-to-Government Violence Against Women Tribal Consultation. Testimony provided by tribal leaders and their delegates during the 2018 tribal consultation event or subsequently submitted to OVW in writing is summarized in this report.

## Consultation Questions

As part of their oral or written testimony, OVW asked tribal representatives to respond to the following tribal consultation questions from the Tribal Jurisdiction Program framing paper (see Appendix 3).

1. How can OVW improve its administration of its Grants to Tribal Governments to Exercise Special Domestic Violence Criminal Jurisdiction (Tribal Jurisdiction) Program to encourage more tribes to apply for funding?
2. How should OVW expend the unused \$1.6 million in FY 2018 funding for the Tribal Jurisdiction Program?

## Tribal Consultation Event

OVW held its 13th annual government-to-government Violence Against Women Tribal Consultation on August 21 through 22, 2018, in Sioux Falls, SD. Of the attendees, 117 tribal leaders or delegates or representatives of AI/AN organizations, 45 federal and state representatives, and 15 other attendees participated in the tribal consultation (see Appendix 1).

## Welcome and Opening

### Opening Ceremonies

To begin the tribal consultation, the Gordon Weston Veterans Post #6597, staffed by Wilbur “Randy” Bernard, posted the colors, with the eagle staff presented by Dennis Quigley (Sioux Falls Akicita). Roxanne Sazue, Crow Creek Sioux Tribe Elder, provided an opening prayer. Rising Hail, led by Allen Hare (Yankton Sioux Tribe), performed a traditional drum song.

The Native Women’s Society of the Great Plains performed a shawl ceremony to honor victims of violence. Members of the coalition placed shawls on four empty chairs to symbolize children, victims of sexual assault, victims of domestic violence, and murdered and missing indigenous women.

### Opening Remarks

***Sherriann Moore (Rosebud Sicangu’ Lakota), Deputy Director of Tribal Affairs, OVW***

Ms. Moore welcomed the attendees to the tribal consultation and thanked them for participating. She reviewed the event agenda. Several tribal and federal officials provided opening comments, which are summarized below.

***The Honorable Darla Black, Vice President, Oglala Sioux Tribe***

For years, violence against women has been ignored. If we lived the way our ancestors lived, our women would not be hurt. In my hometown of Manderson, SD, women are missing, raped, and murdered. Our sisters across the United States, Canada, and Mexico are also missing, raped, and murdered. This is no longer simply a crisis; it is an epidemic. We need more funding for public defenders, and we need federal, state, and tribal jurisdictions to genuinely work together to ensure women’s safety. Tribes have the power to make the necessary changes.

***The Honorable Tony Reider, President, Flandreau Santee Sioux Tribe***

I first witnessed domestic violence when I was 17 years old. As a tribal leader, I quickly realized the extent of domestic violence and the effect it has on victims. So many voices go unheard that it is difficult to determine the actual number of people affected by domestic violence. Many women who experience domestic violence begin experiencing it at a young age, and their suffering continues for a lifetime. This behavior is not part of our culture. In our culture, we believe women and children are sacred. It is time to listen to the unheard voices and break the cycle of violence. It will take an entire nation to break the cycle.

***Katharine T. Sullivan, Acting Director, OVW***

Ms. Sullivan thanked the tribal leaders and delegates for attending the tribal consultation. In response to tribal feedback regarding previous tribal consultations, OVW scheduled a 2-day tribal consultation this time to allow more time for testimony and included an interactive discussion period with the federal government representatives in the agenda. VAWA requires OVW to hold a tribal consultation to address federal administration of tribal funds and programs under VAWA to enhance the safety of Native women and strengthen the federal response to violent crimes. DOI and HHS collaborate with DOJ to help prevent and address crime in tribal communities. Because they are key partners, DOI and HHS are

represented at this tribal consultation. Representatives of all three federal agencies will listen carefully to tribal testimony and be available for questions during the interactive session.

***The Honorable Jesse Panuccio, Acting Associate Attorney General***

Mr. Panuccio's remarks are available on the DOJ website at <https://www.justice.gov/opa/speech/acting-associate-attorney-general-jesse-panuccio-delivers-keynote-address-2018-violence>.

### Introduction of Federal Partners

Ms. Sullivan facilitated the introduction of federal attendees. In addition to Ms. Moore, Ms. Sullivan, and Mr. Panuccio, the following DOJ representatives participated in the tribal consultation.

- **Phil Keith**, Director, Office of Community Oriented Policing Services (COPS)
- **Ron Parsons**, U.S. Attorney for the District of South Dakota
- **Howard Spivak**, Principal Deputy Director, NIJ
- **Tracy Toulou**, Director, Office of Tribal Justice

As mandated by VAWA, federal partners from HHS and DOI attended the tribal consultation. HHS representatives included:

- **Kenya Fairley**, Acting Director, Family Violence Prevention and Services Program
- **Angela Fallon**, Deputy Director, Office of Clinical and Preventive Services, Indian Health Service (IHS)
- **Nancy Mautone-Smith**, Deputy Director, Health Resources and Services Administration, Office of Women's Health

Representatives from DOI included:

- **Eugenia Tyner-Dawson** (Sac and Fox Nation), Senior Policy Advisor, Assistant Secretary—Indian Affairs, Office of the Secretary, DOI

### Update from Tribal Caucus Meeting

Juana Majel-Dixon, Pauma Tribe Legislative Councilwoman, and Michelle Demmert, Chief Justice for the Central Council Tlingit and Haida Indian Tribes of Alaska, provided a summary of the previous day's tribal caucus meeting. Upon reviewing the official position of the National Congress of American Indians (NCAI), tribal leaders who attended the tribal caucus agreed to advance the following recommendations.

- **Consult with tribes to develop a pilot project that supports tribes in exercising SDVCJ over non-Indian offenders.** Currently, SDVCJ is limited to tribes that have law enforcement and fit within the statutory definition of Indian Country, which excludes all but one of the 229 Alaska tribes. The current definition of Indian Country may also prevent tribes in restrictive land settlement states, like Maine, from exercising this jurisdiction.
- **Complete the 2013 baseline study on violence against women in Alaska Native villages.** All tribes need data they can use in grant applications to justify grant moneys.
- **Promote consistent enforcement of federal statutes across tribes.** Increase TTA to improve enforcement of statutes, especially those regarding firearms and habitual offenders.
- **Conduct specific research to provide insight into the number of missing Native women.** Review and revise law enforcement and justice protocols for handling cases of missing Native women.

- **Institute the VOCA set-aside as a permanent fix and increase it from 3 to 5 percent.** Many tribes were not aware of the opportunity to apply for these funds or lacked the internal capacity to apply. Therefore, it is important to consult with tribes to determine how to best disburse the funds. The Family Violence Prevention and Services Act (FVPSA) model was created in consultation with tribes and could serve as a model for determining how to distribute VOCA funds.
- **Reform tribal public safety funding.** Bureau of Indian Affairs (BIA) released a report that identified \$2 billion in unmet tribal law enforcement and tribal court funding needs. Most tribal courts in P.L. 83-280 states are completely left out of that funding.
- **Initiate consultation with tribes to identify states and counties that oppose tribal protection and exclusion orders and discuss increasing the federal penalties for failure to honor tribal protection and exclusion orders.** Sometimes an exclusion order is the only way to prohibit a perpetrator from reentering a tribal community, but there is no mechanism in place for enforcing these orders.
- **Discontinue the special domestic violence criminal jurisdiction pilot project questionnaire.** The questionnaire inquires about intimate details of tribal functions, and tribes view these questions as intrusive.
- **Increase tribal access to FVPSA funds for domestic violence shelters and supportive services.**
- **Support legislative amendments to address challenges and uncertainty around exercising tribal VAWA jurisdiction, particularly in Alaska.** For example, a potential solution is to amend the Alaska Native Claims Settlement Act to recognize a tribe's jurisdiction as equivalent to the corresponding village corporation's land base and traditional territory and create a pilot program for Alaska tribes so they can exercise SDVCJ. Consult with tribes to determine the most effective path forward.
- **Hold states accountable for prosecuting offenders and complying with federal regulations.** It seems that tribal law enforcement and prosecution offices are scrutinized much more closely than their state counterparts.
- **The U.S. Attorney's Office should coordinate with tribal justice officials so tribes can use the evidence when cases are declined.** Continue the tribal liaison program and communicate to states that tribal justice officials have proper implementation of Section 601 of the Tribal Law and Order Act (TLOA), which covers prison release and reentry programs.
- **Provide all tribes with full access to federal databases, establish a permanent funding stream for this purpose, and build flexibility into TAP to ensure all tribes can access the databases.**
- **Restart the Bureau of Prisons TLOA program.** Amending tribal constitutions to exercise enhanced jurisdiction took several years, meaning few tribes were able to capitalize on this project before it ended. Expand this program beyond violent offenders to include anyone sentenced for longer than 1 year.

# Tribal Testimony

After the opening remarks, tribal leaders and delegates shared testimony and recommendations regarding the consultation topics. This testimony is **summarized** in the following sections, accompanied by the speaker's name, title, and tribal or organizational affiliation. The sections below are alphabetized by tribe or organization name. Some tribal representatives who spoke at the tribal consultation also provided written comments to underscore or elaborate on their oral testimony. In those cases, the written comments are integrated into the summarized testimony below. A separate section of this report presents testimony from tribes who provided only written comments. In total, **34** speakers presented in-person testimony on behalf of **38** tribes and organizations at the tribal consultation. An additional **15** tribes and organizations provided written comments.

## Akiak Native Community

*The Honorable Michael Williams, Tribal Council*

### Funding

Competitive grants impede tribal access to DOJ and HHS funds. Tribes that do receive funding cannot rely on its renewal; as a result, there are countless stories of successful tribal programs disappearing at the end of the grant cycle.

*In the end, only the tribes with grant writers receive funding, while the under-resourced tribes are left without.*

### Tribal Courts and Law Enforcement

BIA base funding for tribal courts and law enforcement is entirely inadequate. A 2013 Indian Law and Order Commission report confirmed a dramatic under-provision of criminal justice services in rural and Native areas of Alaska. Last year, BIA released a report that identifies \$2 billion in unmet need for tribal law enforcement and courts.

Of the 56 villages in our region, the Village Public Safety Officer program only serves nine. Many villages have no police protection at all. If Alaska Native villages receive the resources to create and administer their own law enforcement departments, those departments will be more responsive to local needs.

### Housing

There is an urgent need for village-based shelters and housing assistance since many victims cannot afford airfare to leave the village. Those affected by violence against women, including the perpetrators, need access to interventions and rehabilitative services. FVPSA funding remains the only federal funding source that backs domestic violence shelters and supportive services, and current FVPSA funding is inadequate to support sustainable services. The 10 percent FVPSA tribal set-aside was created before federal recognition to Alaska tribes was restored, which increased the number of eligible tribes by 40 percent. Further, FVPSA funding excludes tribal domestic violence coalitions.

### STOP Violence Against Women Formula Grant

VAWA 2013 requires states under the Services, Training, Officers, Prosecutors (STOP) Violence Against Women Formula Grant program to consult with tribes. Alaska has not complied with their obligation to consult with Alaska tribes in developing STOP implementation plans. The state did not provide Akiak

Native Community with appropriate notice and did not properly coordinate with the village in developing the STOP plan. The plan does not reflect the concerns and needs of Alaska tribes.

***As we continue to experience the highest rates of domestic violence and sexual assault incidents, it is more important than ever that we increase our collaboration efforts and ensure that resources are provided to all women in Alaska, including Alaska Native women in the remote villages of Alaska.***

## VOCA Funding

VOCA funding is the largest federal funding source for providing victim services. We continue to advocate for a permanent tribal set-aside of VOCA funds.

## Response to Missing and Murdered Native Women

I have cousins who are missing or have been murdered. Since 2003, tribes have consistently raised concerns about inadequate law enforcement responses to missing persons reports.

## Recommendations

- Consult with tribes to develop a proposal for reforming tribal public safety funding to meet local needs.
- Support the authority of Alaska Native villages to design and implement culturally appropriate solutions to address the lack of law enforcement and judicial services in the villages.
- Provide training and funding directly to Alaska Native village governments for tribal law enforcement.
- FVPSA should support an annual non-competitive funding source specifically for Alaska tribes.
- Continue to provide long-term funding for the Alaska Native Women's Resource Center (ANWRC), which works closely with Alaska tribes to provide TTA, develop policies, and create culturally appropriate resources.
- Offer tribes the option to receive annual base allocations based on the number of enrolled tribal citizens, rather than on census numbers, which do not reflect the actual number of victims served in Alaska villages.
- Clarify the process states should use to consult with tribes regarding STOP.
- Require states to certify that they have consulted with all tribes in the state regarding STOP.
- Require states to provide information about how STOP funds directly support local, village-based responses.
- Create a permanent tribal allocation in VOCA funding.
- Promote stable funding allocations that support tribes in providing consistent crime victim services for the next 10 years, especially for communities with worsening victimization rates.
- Establish a high-level working group that includes ANWRC, the National Indigenous Women's Resource Center (NIWRC), the Indian Law Resource Center, and the NCAI violence against women taskforce to develop and implement a training protocol and alert system for responding to missing persons reports.
- Use the unspent SDVCJ funds to support an intertribal working group for Alaska to help develop a pilot project for improving Alaska justice responses to violence against women.

## Asa'carsarmiut Tribe of Mountain Village

*The Honorable Gloria George, Council Member*

### Transportation and Victim Services

Our village is remote, and we only have one road. We travel by plane, boat, and snow machine.

Transporting victims out of the village is a major challenge.

In my experience working for the health clinic, we saw women who had been raped and children who had been abused. We had to send them elsewhere to recover and receive services. Almost every time, that person would return home within several days to no resources that could help them recover from the trauma. Many of the children I treated are now adults with their own children, and they are behaving the same way their parents did because they never received any services. Our community is trying to establish services to help victims heal, but funding such a program is challenging. It seems like most domestic violence and abuse in our village stems from those who experienced traumas earlier in their lives.

### Domestic Violence

When I was growing up, my father sometimes hit my mother when he was drunk. The village elders visited him and explained that what he was doing was wrong and helped him learn to control his anger and be a good husband and father. He never hit her again. This example shows that our village has always responded to the problems we faced; when domestic violence occurred, the village elders met with the abuser and guided them in how to change. My family is proof that we can break the chain of abuse when we remember who we are as Yup'ik people and our responsibility for taking care of each other.

Today, we depend on a police system that seldom, if ever, works to stop the violence. In remote villages, by the time law enforcement responds to a domestic violence situation, it is often too late. Usually, the woman has already returned to her abuser and the violence continues.

In my first marriage, I experienced domestic violence. Sometimes I was forced to run away with no coat or shoes. My second marriage was similar.

***As a Yupik woman who survived domestic violence, there were no services available to me. There were no services available to my children, who witnessed the domestic violence. We got little or no help from law enforcement.***

With assistance from OVW, we need to strengthen our police force and establish a women's shelter that can offer education and support for the families who are suffering from abuse. Once we have a building, we can do fundraisers to supplement the federal support for the shelter. Education and healing through our Yupik ways are key to addressing the violence. Abusers need to know they will be held accountable.

There is now a gold mine in our region, and I worry that non-Native workers will come to our village and be abusive. To help us hold repeat offenders accountable, we need enhanced penalties for violation of a tribal protection order.

## Recommendations

- In VAWA 2018, include enhanced penalties for village protection order violations by non-Natives.
- Assist Alaska Native villages in strengthening their police forces and establishing women's shelters.

### ***Catherine Moses, Tribal Administrator***

Severe weather often restricts travel into and out of our village for days or weeks, so the tribe is typically the only entity in the area to respond to crimes. The state and federal governments are not immediately present when violence occurs.

Our tribe continues to face legal barriers and challenges to our authority as we work to safeguard our people. The federal government has a trust responsibility to assist tribes in protecting our women and children.

## Law Enforcement

Currently, our law enforcement program employs two officers. They cannot be expected to work all day, every day. The officers need to rest 2 days a week, but crime does not conveniently occur between 9 and 5 Monday through Friday. Recently, during the officers' lunch hour, a woman ran to a home and said that men were abusing her in the house next door. When the police finally responded, the woman was too afraid to report the details.

## COPS Funding

Our original COPS budget was revised without consulting us.

## Murdered and Missing Indigenous Women

Many tribal leaders face murders and disappearances of our women.

***The murders and disappearances of women and girls in Alaska Native and American Indian communities are connected to the lack of protections from the state and federal government and the failure of the federal government to provide resources to establish a comprehensive response.***

## Victim Services

The reality of life in Mountain Village is that women and girls are sexually assaulted and brutally beaten, and they do not have access to the services they need to cope with these crimes and restore their wellbeing. There is only one Yupik women's shelter in our region. This shelter and the women's coalitions in Alaska are essential to providing services to victims. We would like to fund our own shelter, but cannot do so without increased FVPSA funds.

## Training and Technical Assistance

Our tribe is facing a crisis in responding to violence against women. We do not have time to educate TTA providers about our village. We need to receive TTA from providers who understand the crisis we face and Alaska Native village life.

## Recommendations

- Maintain the government-to-government relationship at all levels and in all discussions.
- In the tribal consultation report, include an action plan that addresses the concerns and recommendations of tribal leaders.
- Work with other federal departments to address funding disparities for Alaska tribes.
- Consult with tribal governments before placing any special conditions on tribal funding.
- Provide grants and TTA specifically designed for Alaska tribes and the issues they face.
- Fund an additional three tribal law enforcement officers for Asa'carsarmiut Village.
- Consult with a tribe before changing the tribe's proposed budget under federal funding programs.
- Support the Asa'carsarmiut Village in developing a comprehensive response to support victims of sexual assault and create accountability for offenders.
- Coordinate with tribes to develop a national law enforcement protocol to respond to cases of missing Native women and girls.
- Launch an outreach campaign to inform tribal communities of steps to take when a person goes missing.
- Increase funding for women's shelters.
- Continue to contract with ANWRC and support the Yupik Women's Coalition.
- Support Savanna's Act.

## Central Council of Tlingit and Haida Indian Tribes of Alaska

*The Honorable Catherine Edwards, Vice President*

### Transportation

Our tribe is made up of 22 island communities that are not connected by road. To reach the communities, you must travel by boat or small plane. The planes cannot fly in inclement weather. A ferry system transports village members to larger cities, but they typically must wait 2 weeks for the ferry to arrive. This difficulty escaping the village endangers lives. Many communities lack resources for sexual assault victims. Expecting the victims to travel to Anchorage to receive services is unreasonable.

### Law Enforcement

Approximately 40 percent of the villages and tribes in southeast Alaska do not have law enforcement of any kind. There is no one to enforce protection orders. Some villages have village public safety officers. The Village Public Safety Officer program requires a village to be an Alaska Native nonprofit organization to receive funding, and not all Alaska tribes or villages have that status. Village public safety officers may carry tasers and defensive spray, but not guns. Therefore, they are more like moderators of emergency situations, rather than law enforcement officers. In 90 percent of our communities, there is no 911 service.

Last year, one of our young women was murdered in the village of Kake. The response time to this crime is considered a success because investigators arrived at the scene in 12 hours, instead of several days. The crime is still under investigation, and there has been no arrest. When a victim's body is discovered, the body often lies outside for a long time before investigators arrive. During this time, wildlife and inclement weather can destroy evidence. Unsolved crimes teach the perpetrators that they can get away with hurting women. While the investigation drags on, the perpetrators begin grooming their next

victims. Lack of response to violent crimes discourages victims from reporting them because it sends a message that nothing will be done to protect them.

*In Alaska, sea otters get more protection than our women and children. Not only were these girls killed and terrorized by someone they loved, now their bodies are left to the elements until law enforcement can show up. Leaving that body there or not arresting the perpetrator sends a strong signal to the community: "Women and children don't matter. We don't care if you die. There's nothing anyone can do for you."*

It is difficult to try to explain to a victim's family why the body is still lying in the village days later or why the perpetrator has not been arrested. Telling them the situation is out of the tribe's jurisdiction is not an acceptable answer. Perhaps it is time for a civil rights investigation into the way the state handles these cases. The state commissioner attended a public meeting in Kake, and when inclement weather interfered with his departure, a special jet flew in to transport him. If the commissioner can get a special jet, surely a special jet can help law enforcement respond to crime scenes.

This year, the Central Council of Tlingit and Haida Indian Tribes of Alaska passed Judy's Law, named for Judy Lee. Her husband murdered her, and when the police arrived to arrest him, he held his children hostage. Two years later, these crimes remain unprosecuted. This law terminates the parental rights of one spouse who murders the other and endangers the children.

## Funding

The recent VOCA grant announcements are a start in the right direction, but many villages lack the capacity to apply for grants or administer a program if awarded funds. Our villages need support in growing our capacity. Tribal law enforcement funds need to be tribally controlled, not administered by the state.

## Recommendations

- Provide additional funding for transitional housing.
- Provide funds for culturally appropriate intervention and healing services for everyone affected by violence.
- Support Alaska Native villages in enhancing their capacity to apply for and execute grants.
- Provide additional law enforcement funding and training for Alaska Native villages.

## Cherokee Nation

***Dianne Barker-Harold, Attorney, Cherokee Nation Victim Task Force***

### Tribal Protection Orders

Full faith and credit for tribal protection orders is crucial to safeguarding against domestic violence; it protects survivors' freedom to travel by requiring law enforcement and courts throughout the country to recognize tribal protection orders. However, many tribes report that state or county courts do not recognize tribal protective orders.

***Survivors may be in greater danger when they cross jurisdictional lines to work, attend school, visit family, travel, or relocate because abusers frequently pursue and stop them.***

Full faith and credit is defined as recognition and enforcement of orders and judgments from another jurisdiction. It requires law enforcement and courts to treat protection orders from other jurisdictions as if their own jurisdiction issued them, which means if an abuser violates a protection order, they can be arrested anywhere and prosecuted. The U.S. Constitution, Article IV Section 1, says full faith and credit shall be given to the public acts, records, and judicial proceedings of other state and tribal courts.

***Written comments from Todd Hembree, Cherokee Nation Attorney General***

The Cherokee Nation has approximately 360,000 tribal citizens, and the tribe's jurisdictional area spans 14 Oklahoma counties. As a sovereign tribal nation, the Cherokee Nation has its own law enforcement agency and court system that investigate and prosecute violations of Cherokee law. Since May 2018, the Cherokee Nation has exercised SDVCJ under VAWA. We also provide domestic violence victim services, including transitional housing and advocacy.

**Tribal-State Collaboration**

The Cherokee Nation Marshal Service partnered with the Oklahoma State Bureau of Investigation to enhance evidence-gathering techniques for sexual assault cases. IHS is now using the protocols that arose from this partnership as a model for state and tribal collaboration in training sexual assault nurse examiners (SANEs) and sexual assault response teams.

**Improvement of the OVW Tribal Jurisdiction Program**

OVW funding is not accessible immediately after the award due to delayed budget approvals. When tribal budgets are not approved in a timely manner, tribes cannot access grant funds to support personnel and operating expenses. The current conditional travel fund release of \$10,000 is insufficient. The unused FY 2018 funds should revert to the same grant program to increase funding for the next funding cycle, which will likely increase the number of awards to tribal governments for the next fiscal year.

**Recommendations**

- Release a conditional \$50,000 immediately upon award of OVW funds to cover operating costs until tribal budgets are approved.
- Ensure that TTA comes from tribal organizations experienced in issues related to domestic violence, sexual assault, and stalking in Indian Country.
- Re-issue another Tribal Jurisdictions Program solicitation in early FY 2019 to use the unspent funds.

**Chippewa Cree Tribe**

***The Honorable Calvin Jilot, Tribal Council***

**Communication**

Funding is an ongoing challenge. On both sides, communication between tribes and DOJ or DOI needs improvement. The Chippewa Cree Tribe often inquires about release dates for funds or reports but does not receive satisfactory responses from the federal departments. Annual tribal consultations are

important, but we would like DOJ to contact our tribe more regularly and possibly provide onsite training.

### **Tribal Court System**

Within the Chippewa Cree court system, more than 80 percent of court cases are dismissed, dropped, or still pending because the court personnel lack experience. We need more training for our judges and prosecutors.

### **Recommendations**

- Provide TTA for tribal court personnel.
- Work with tribes to strengthen communication and contact or visit tribes regularly.

## **Confederated Salish and Kootenai Tribes**

*The Honorable Carole Lankford, Tribal Council Member*

As noted on the NCAI website<sup>1</sup>, 34 percent of Native women are raped in their lifetimes, and 39 percent are victims of domestic violence. The U.S. Attorney's office declines to prosecute 67 percent of sexual abuse and related crimes that occur in Indian Country.

### **Working with Other Jurisdictions**

Our reservation land base includes tribal trust lands, individual Indian trust allotments, state lands, private lands, and federal lands. This configuration poses many jurisdictional challenges. Due to failed allotment and assimilation policies, our people are a minority on our own reservation. We are a partial P.L. 83-280 reservation, which means the tribe handles misdemeanors and civil matters and the local counties handle felonies. Many non-tribal law enforcement departments still do not recognize tribal convictions or protection orders, which is extremely problematic for our reservation, where the counties prosecute felonies.

We have a memorandum of understanding with nearby law enforcement departments that promotes rapid response and clear procedures for addressing crimes.

### **Victim Services**

Our Victim Assistance Program (VAP) provides a restorative process to diminish the devastating impacts of domestic violence, sexual assault, and stalking. The program offers public education to help prevent violence. Additionally, the program helps victims apply for protection orders. Program staff maintain a hotline that receives around 200 calls per year.

***Continued grant funds are critical for operation and maintenance of our VAP program and for the safety and protection of our membership.***

### **Rehabilitation**

Most violence against our women and children involves drugs and alcohol. Treatment opportunities, sober living, and skilled training are limited on our reservation and throughout Montana. We believe

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<sup>1</sup> <http://www.ncai.org/policy-issues/tribal-governance/public-safety-and-justice/violence-against-women>

wellness courts could help reduce domestic violence cases on our reservation, especially given early successes with our county drug court.

Most offenders return to our community after incarceration. To decrease their chances of reoffending, we need to provide adequate rehabilitation services.

### **Sex Trafficking**

Drug trafficking is linked to sex trafficking on our reservation. Grant programs are critical for providing TTA to address sex trafficking. Between January and August 2018, 13 indigenous women went missing in Montana. More resources for law enforcement would support investigations and help decrease the number of missing and murdered Native women.

### **Violence against Children**

Native children are often victims or witnesses of violence. Due to exposure to violence, many Native children develop post-traumatic stress disorder.

### **Notifications of Funding Opportunities**

Managing federal funding opportunities is arduous for tribal governments, who have limited resources and staff who cover wide areas of responsibility. Federal Register notices and dear tribal leader letters are appreciated but insufficient for tribes struggling to provide basic services to thousands of people with limited resources and staff.

### **Recommendations**

- Provide grant funds to help victims of violence purchase food, hotel stays, and bus tickets.
- Increase funding for tribal domestic violence shelters.
- Authorize tribal courts to prosecute non-Native people who commit offenses against or in front of children.
- Organize opportunities for tribes to discuss challenges and opportunities with one another.
- Support funding opportunities that would provide treatment and services for both victims and offenders.
- Implement DOJ regional liaisons to work with tribes on managing federal funding opportunities.

## **Crow Creek Sioux Tribe**

***Roxanne Sazue, Traditional Elder***

Our tribe wants to begin restoring jurisdiction over our own communities. Our tribal citizens know what the community needs, and we have the solutions to our own problems, but we need resources to implement these solutions.

The Crow Creek Reservation was established by executive order as a prison camp for Dakota and Winnebago people following the Dakota War. The U.S. government promised to send supplies to the camp but never did. Many people died from starvation, disease, and exposure. The women faced continual rape and abuse by the soldiers. The lack of necessities forced women into impossible choices, and they sometimes sold themselves and their daughters for food. This was the beginning of sex trafficking on the Crow Creek Reservation.

Our rural reservation is located in one of the top 10 poorest counties in the nation. Women trying to escape violence cannot find jobs or places to live due to shortages of housing and employment opportunities. Our girls grow up poor and face a high likelihood of being sexually abused or ending up in foster care. They often drop out of school and become homeless. Native American girls have a higher incarceration rate than any other ethnic group.

## Funding

With a rising crime rate, we need additional funding to provide more services. Competitive funding works against many tribes. Most tribal programs subsist on grant funds. A delay in the award of a grant or the release of funds means services will stop.

***Our tribe, under the best of circumstances, cannot provide those monies needed to supplement a grant that is delayed or not funded.***

## Law Enforcement

One BIA special agent investigates all major criminal matters on the Crow Creek Reservation. Given the travel time needed to respond to crimes throughout the reservation, his caseload is unmanageable. Most cases remain open for several months until the investigator can address them. Sometimes, he cannot investigate at all. We need resources to fully fund a stable police department with more officers. Among these officers, we need competent special agents for investigating sexual assault and officers trained in human trafficking issues.

## Rehabilitation

Prisons have not rehabilitated Native men. Many men abandoned our traditional values and adopted values of prevailing U.S. society that condone violence against women and girls. They have grown up believing that beating and raping women is acceptable. Messages from the media, coupled with seeing crimes go unprosecuted, normalize violence against women. Offenders return to the reservation upon their release, and we need resources to provide our traditional approaches to accountability and healing.

## Violence Prevention

We need flexible funds for violence prevention education. When we ask the community to attend activities, it is our tradition to offer food. However, federal grants do not allow us to purchase food or other incentives for participation. To help prevent violence, we also need more funding for mental health services, since the prevalence of mental health disorders on our reservation is increasing.

## Recommendations

- Rework funding formulas to award grants based on a tribe's level of need, such as by considering poverty level and crime rates.
- Consult with tribes on prison reform and provide resources to support traditional rehabilitation approaches.
- Offer grants for violence prevention activities that allow tribes the flexibility to conduct these activities according to tradition.
- Visit tribes in their homelands to learn what they are experiencing.
- Support Savanna's Act.

## Eastern Band of Cherokee Indians

*The Honorable Kirk Saunooke, Chief Justice*

### Funding Gaps

Implementing SDVCJ is extremely expensive, so tribes need more funding to execute this jurisdiction. Jury trials and evaluations to determine a defendant's competency to stand trial cost the tribe a lot of money. Detention costs for defendants prosecuted under SDVCJ are also costly. Our tribe was part of the SDVCJ pilot program. When the Bureau of Prisons pilot program expired, we were in the midst of prosecuting two defendants, so we had to detain them locally.

### Tribal Protection Orders

One way tribes protect their citizens is to banish non-members who perpetrate violence. However, the non-member often returns to tribal lands because they know the tribe lacks jurisdiction over them. Our tribe worked with the state of North Carolina to pass a special law that makes violation of tribal protection orders a state crime. If the banished person reenters the reservation, the state charges them with a low-level misdemeanor, with increasing severity for subsequent violations. This model may help other tribes in working with their states to enforce protection orders.

### Recommendations

- Discontinue the special domestic violence court jurisdiction pilot project questionnaires, as tribes consider the questions intrusive.
- Provide tribes additional funds for SDVCJ implementation, jury trials, and competency evaluations.

## Eight Northern Indian Pueblos

*Gil Vigil, Executive Director*

Through our creation stories, our nations received our laws on how to conduct ourselves and protect and serve our people. Today, the pueblos of northern New Mexico still exercise our traditional form of government. We have war chiefs who preserve our traditional ways of life. In our tradition, our leaders guide, protect, and serve the people.

Beginning with the Christian Doctrine of Discovery, under which Christopher Columbus claimed U.S. lands, various laws and doctrines have aimed to terminate indigenous people, including the creation of boarding schools where we were punished for practicing our lifeways and the removal acts that displaced tribes from their homelands. Then, the federal government passed P.L. 93-638 to promote tribal self-determination. However, as with other laws meant to support tribal interests, P.L. 93-638 imposes rules and standards, so it does not allow true self-determination.

Similarly, VAWA authorizes tribal courts to prosecute non-Native offenders, but only if those courts adhere to the western model, rather than following their traditional ways. We need to avoid a future in which only a handful of tribes receive funding under VAWA programs because the requirements become too strict.

The federal trust responsibility means providing the funds and the flexibility for us to provide services and conduct our lives according to our traditions. This responsibility is in exchange for the land and resources that were taken from the tribes.

*We are not asking for a handout because we are deserving of those funds.*

## Recommendations

- To honor the trust responsibility, provide flexibility for tribes in VAWA programs.
- Visit the tribes in person to better understand the unique needs of each community.

## Emmonak Village

### *The Honorable Larry Yupanik, Councilman*

Emmonak is an isolated village in southwestern Alaska with no road system. The rivers are our highways, which makes traveling to and from our community difficult.

Currently, our village lacks the infrastructure to respond to violence in our traditional ways, and we need federal support in strengthening our response to violence against women. We have three village public safety officers and three state troopers who rotate through the village.

We received a tribal court grant and are reestablishing our traditional village court. The elders court helps in cases of children and youth misbehaving. Working with children and teaching them respect for others will help deter abuse in the future. These approaches are not an immediate response to violence, but they help us live according to our beliefs and tradition of treating each other with respect.

I first encountered violence when I was in first grade. I was bullied and sexually assaulted twice. One day, the bullies grabbed me after school and forced me to perform sexual acts with a girl. Due to the violence I experienced, I often thought about suicide. Now, I am a husband, father, and grandfather. We need tribal services to address the high rates of substance use, suicide, and violence in our community. The housing crisis exacerbates these problems.

## Recommendations

- Reaffirm tribes' inherent authority to govern and protect their people.
- Provide formula funding to support tribal justice systems and victim services.
- Remove the term "Indian Country" in the VAWA language regarding tribal protective orders, to provide a stronger footing for Alaska Native village protective orders with other jurisdictions.
- Create a pilot project for Alaska tribes to exercise SDVCJ.
- Support tribal efforts regarding missing and murdered Native women.

## Kenaitze Indian Tribe

### *The Honorable Bernadine Atchison, Vice Chairwoman*

Tribes in Alaska continue to experience challenges that require long-term solutions. Victims need the opportunity to heal through effective and efficient services. Enhanced law enforcement resources, judicial education regarding sentencing strategies and victim trauma, and greater public awareness of issues of violence would improve outcomes for AI/AN women.

Tribal consultation helps improve federal laws, but only when Congress receives meaningful and timely notice about the concerns and recommendations tribes present.

Our tribe has strengthened our criminal justice system, has created community education campaigns, and provides transitional housing assistance and legal representation for survivors of violence. The response to violence against women can be strengthened through enhanced partnerships, protocols and procedures, and service expansion.

### Disparities Among Alaska Native Women

Women in Alaska endure higher rates of domestic violence and sexual assault compared with women nationally, and Alaska Native women are sexually assaulted at a rate that is three times the state average. Alaska has the highest rate of women killed by intimate partner violence per capita, with Alaska Native women killed at 4.5 times the national rate. Alaska Native women represent an estimated 24 percent of all domestic violence survivors and 23 percent of rape survivors in Alaska. They also endure more unsuccessful attempts to leave an abusive environment than non-Native women; on average they make 25 attempts before permanently escaping the situation compared to an average of 8 attempts among non-Native women.

***The lack of identifiable, consistent, and relevant community engagement and support significantly inhibits victims from reporting domestic violence and seeking intervention.***

The lack of supports for victims leads to underreporting of domestic violence and sexual assault and a lack of consistent service infrastructure to combat these crimes at the community level.

### Funding

Fair, equitable, and non-competitive funding remains a priority to strengthen our programs and our services. The 3 percent tribal set-aside of VOCA funding achieved in March 2018 is invaluable in helping provide services that are proven to work. The state-administered STOP funding has also benefited our region greatly, and this resource and partnership must continue.

Current funding mandates prevent children who witness domestic violence or sexual assault from receiving services; mandates need to be modified to create a whole-family approach. Because of OVW funding mechanisms, many tribal programs operate without the assurance of continued support, which inhibits strategic planning for vital services and programs. Because the justice process and a victim's recovery take time, additional, sustainable funding is crucial to supporting effective long-term services.

When I was 13 years old, I was sexually assaulted. I covered it up for many years, as many survivors do, which is one reason why long-term services are essential. If a program supports victims for 3 years and then ends, it does not fully address the problem. Healing takes a long time.

### **Culturally Appropriate Services**

Services for Alaska Native victims lack cultural sensitivity. The availability of specialized clinical interventions and family support services is limited and fragmented. The geographic uniqueness and deep socioeconomic challenges of Alaska Native villages require specialized solutions.

Often, women and children fleeing abusive situations relocate from remote villages to the Kenai Peninsula. The presence of survivors and families from many different village backgrounds adds challenges to providing culturally responsive services for all victims. Many of these victims lack formal supports, such as housing and transportation, which prevents them from attending appointments beyond their initial visit to victim services.

### **Community Awareness**

Community education is crucial to helping prevent violence, and we need to involve school personnel and youth in the outreach. My great niece died by suicide earlier this year. She was 11 years old. This happened because a boy at school was threatening to rape and kill her. She had written a letter to a school official disclosing the boy's threats, but the school did not inform the parents.

### **Violence Against Elders**

Elder women are truly invisible victims. The rates of victimization later in life are rising at an alarming rate, but services rarely reach these women.

### **Substance Use**

Our greatest challenge is the epidemic of heroin and alcohol abuse. Substance abuse has a direct correlation to the victimization of our women.

***For women who are victims of violence, the ability to leave is significantly impeded due to addiction and the source of supply. Perpetrators know that. Many perpetrators of violence can maintain a stronghold over a victim through addiction.***

Typically, law enforcement does not respond to women who are known to have substance use problems, and further, victims may fear calling the police if they are intoxicated. Addressing victimization with accompanying addiction requires expansive, long-term services.

### **Recommendations**

- Notify Congress of tribal recommendations and concerns in a timely manner following tribal consultation, advise tribes of the submission, and release the findings publicly.
- Provide adequate, noncompetitive funding to support Alaska tribes in their pursuit of justice for Alaska Native women who are victims of domestic violence, sexual assault, dating violence, and stalking.
- Expand technical assistance to support Alaska tribes.
- Raise the VOCA tribal set-aside to 5 percent and make it permanent.
- Work to create greater stability for Alaska Native victims in the state and tribal justice systems and reduce the number of cases that are pled down or pled out.

- Expand TAP and continue to facilitate sharing of criminal information among tribal governments.
- Prioritize increased training and resources related to domestic violence, sexual assault, and human trafficking.
- Expand service delivery to include children who have witnessed violence.
- Assemble a statewide DOJ workgroup to strengthen collaboration among OVW, the state, and tribes.
- Implement a victim service framework that:
  - involves a trauma-informed approach;
  - expands and enhances regular care services for survivors;
  - provides culturally appropriate wrap-around service delivery that moves survivors toward empowerment, healing, and justice;
  - improves outreach to survivors and the general public; and
  - broadens the scope of current partnerships.

## Little River Band of Ottawa Indians

*The Honorable Jamie Friedel, Tribal Council Member*

Certain locations in our service area have high poverty rates, which makes it difficult for victims of violence to access victim services, employment, and transportation. Since the passage of VAWA, our tribe has enacted a domestic violence ordinance and created a victim service program. The number of domestic violence victims we serve has increased each year. We primarily attribute this growth to our outreach programs. We also share resources with the nearby counties and cities. We are growing our capacity to implement SDVCJ.

### Tribal Criminal Jurisdiction

The federal government has a trust responsibility to assist tribes in safeguarding the lives of Native American women. In the upcoming reauthorization of VAWA, we hope to see reaffirmation of tribal criminal jurisdiction over non-Native defendants for crimes of sexual assault, child abuse, and other crimes related to domestic violence. Often, domestic violence offenders commit violence against family members also. We are unable to prosecute cases or provide services when a non-Native person commits family violence; if we could prosecute these cases or provide services, we could prevent the offender from carrying out future violence.

### Funding

Even with the progress we have made, we continue to struggle with a lack of funding to provide services to domestic violence victims. In addition, we are restricted in which services we can offer to certain domestic violence victims who do not meet the funding criteria definition.

### Federal Response to Tribal Cases

There is a need to strengthen the federal response to tribal cases. When we forward cases to the U.S. Attorney's office, it often takes months or even years before we receive updates. This inaction deters victims from reporting incidents. Improvements to this process could be as simple as providing regular status updates on referred cases.

## Recommendations

- Under the upcoming reauthorization of VAWA, affirm special tribal criminal jurisdiction over non-Natives for sexual assault, child abuse, and other crimes.
- Expand all funding and services to include victims of family violence, not just victims of intimate partner violence.
- Require U.S. Attorneys to respond in writing to all violence against women cases that tribes refer to them for prosecution and provide an explanation for any declinations.

## Little Traverse Bay Bands of Odawa Indians

### *The Honorable Stella Kay, Vice Chairperson*

All our tribes and families have stories of violence. My mother, sister, and niece have been victims of domestic violence.

Compared to non-Hispanic White people, Native American women are 47 percent more likely to experience intimate partner violence and 58 percent more likely to experience stalking. Within the past year, they are 52 percent more likely to have experienced violence and almost twice as likely to have experienced sexual violence. While Native Americans make up less than 2 percent of the U.S. population, they represent more than 5 percent of missing persons cases.

More than half of the clients of our survivor outreach services program have children. Of the clients who use our transitional housing services, 88 percent have children. Sixty-six percent of our cases involve a non-Native perpetrator.

Domestic violence, family violence, and sexual assault have long-term effects on victims and their families. The impacts often include depression, risk of suicide, alcohol or drug dependency, and negative effects on the victims' relationships with others. The reauthorization of VAWA and continuation of funding to create, implement, and enhance culturally specific victim services are crucial for tribes.

### Housing and Transportation

Housing continues to be a significant barrier for survivors in our rural area. Our community is primarily a resort community for visiting tourists, so rent is not affordable and real estate prices are rising. Most victims cannot afford to leave abusive situations. My niece is trying to leave an abusive situation but cannot find affordable housing.

*Some survivors make minimum wage or lower and are not able to secure affordable housing in this area and are forced to move further away from the community resources that will help them survive.*

Due to geographic isolation, lack of public transportation is another barrier to accessing services. This barrier further contributes to a sense of helplessness among victims.

### Legal Assistance

Regardless of criminal prosecution, the issues of divorce, child custody, and child support often arise. Due to the cost and length of time involved in these types of cases, victims cannot afford to hire private attorneys and are often turned down for legal aid. Consequently, they must attempt to navigate the criminal justice system on their own.

## Special Domestic Violence Criminal Jurisdiction

Nationally, non-Native men commit the majority of assaults against Native women. Many of these crimes go unpunished. If victims of violence are law enforcement personnel or anyone other than an intimate partner of the perpetrator, tribal SDVCJ under VAWA does not apply.

## Funding

The length of time between awarding a grant and releasing the funds is not conducive to implementing services, hiring staff, or serving clients. Shortening this timeframe would create more streamlined tribal programs and smoothen transitions between different grants or grant cycles.

## Recommendations

- Broaden the scope of tribal jurisdiction over non-Indian offenders to include child abuse, elder abuse, dating violence, sexual assault, stalking, and sex trafficking.
- Develop strong, universal policies and procedures that ensure swift prosecution of cases.

## Lower Elwha Klallam Tribe

### *The Honorable Frances Charles, Chairwoman*

Each tribal community is unique, but we face many similar issues. Resources for domestic violence are limited, so our programs sacrifice many services to channel funds to the highest priorities.

## Housing

Domestic violence caseloads have increased, and there is a lack of housing and social services for the victims. We need transitional housing for victims. We can book them in hotels in surrounding cities, but they are only permitted to stay for a few days. Many of them end up homeless or return home to dangerous situations. Requiring those who receive transitional housing assistance to return furniture often destabilizes them during a critical time.

## Training and Education

We need more funding for training and education within our community. Our law enforcement, health, and social services departments need additional training.

Additionally, families need education about violence prevention. The children are the ones who suffer most from family violence. They also face bullying and harassment at school and in their communities. While social media helps share information with youth, it can also serve as a negative influence on young people. In many cases, grandparents care for their grandchildren in situations where violence has fractured families. We need to educate elders about how to monitor their grandchildren's online activities.

## Staffing

For the Lower Elwha Klallam Tribe, staffing is a great need. Currently, we only have one victim advocate. Victims need representation not just in tribal court, but also in state court.

## Funding

Our tribe lacks the resources to carry on a program or project once the grant cycle ends. Tribes try to work together and help one another, but must compete with each other for funding or for involvement in programs, such as TAP. Many tribes lack computers and internet access, and many tribes lack the

manpower to complete grant applications. Applying for grants is a significant undertaking due to the accompanying regulations, policies, and procedures. Further, grant stipulations often prevent tribes from following their traditional ways when using the funds. For example, some grants do not allow food service at community outreach events. We know what is best for our people and must have the flexibility to meet the unique needs of our community.

While the tribe is thankful for Coordinated Tribal Assistance Solicitation (CTAS) funding, being required to submit competitive federal grant applications to continue providing services without any guarantee of award is inefficient, inequitable, and demoralizing.

### **Tribal Protection Orders**

Local court systems do not recognize our court orders, so we need to conduct outreach to educate local judges about the importance of acknowledging tribal court orders. We need guidance from OVW on how to work with other court systems to ensure they enforce our protection orders.

### **Missing and Murdered Women**

We need stricter requirements for law enforcement and courts on following through with cases of murdered and missing women and men. Two years is too long to wait to learn what has happened to our family members.

### **Tribal Grants for SDVCJ**

Our tribe has not applied for SDVCJ funding because the current grant application is onerous, outdated, and unjust. The pilot project questionnaire is a barrier to tribal applications.

### **Tribal Jurisdiction Program Funds**

To use the unobligated Tribal Jurisdiction Program funds, OVW should consider funding a FY 2019 solicitation or repurposing those funds for use in existing OVW tribal programs. If OVW chooses the latter, we encourage expanding the purposes for which the funds may be used to include health care costs of incarcerated SDVCJ perpetrators and other needs the tribe may identify. Tribes are in the best position to understand their own needs and must have flexibility in expending awarded funds.

### **Recommendations**

- Provide funding for transitional housing for victims.
- Offer funds for training and education for law enforcement and the community.
- Build flexibility into tribal funds so tribes can meet community needs according to their unique culture.
- Provide guidance on how to educate other court systems on honoring tribal court orders.
- Make TAP available to all tribes that wish to participate.
- Discontinue the SDVCJ pilot program questionnaire.
- Simplify the SDVCJ grant application process to mimic the process for the tribal VOCA set-aside.
- Change the tribal funding system from a competitive system to a needs-based formula.

## Northern Arapaho and Eastern Shoshone Tribes

*The Honorable Jodie McAdams, Tribal Council Member, Eastern Shoshone Tribe*

We have improved our capacity for justice and developed a new court system. We can now prosecute offenders in our tribal court. We want other tribes to know there is hope and to thank OVW for funding the SAFESTAR program.

*Kendra Smith, Director, Wind River Sex Offender Registration and Notification Act (SORNA)*

When I was 4 or 5 years old, my stepfather began molesting and sexually assaulting me. He groomed me, such as by spending excessive money on me, to the point where I did not know I had the option to say no. I did not realize that what he did was a crime. I began drinking and using drugs to numb the pain and dull my memory. When I started working on the sex offender registry, I always blamed the victims. I finally talked to someone who helped me realize what happened was not my fault.

One of our tribal employees was previously convicted of first degree sexual assault in Alaska. According to our tribal code and policies, he is responsible for registering as a sex offender until he no longer lives or works within our reservation boundaries. However, he does not believe he needs to register, so keeping him in compliance is difficult. He is threatening to move back to Alaska, so I sent an email to the Alaska sex offender registry, but I have not received a response. I would like to believe he will be held accountable, but keeping him in compliance across multiple jurisdictions leaves room for error.

I would like to see the statute of limitations broadened for reporting sexual assault. A victim should never be told it is too late to come forward.

## Native Village of Nunam Iqua

*The Honorable Edward Adams, President*

There are no road systems in our region of Alaska. Primary modes of transportation are horses during the summer and snow machines during the winter. Weather can severely restrict travel into or out of the village for days or weeks.

### Domestic Violence

Domestic violence is not our culture. By working together with our tribal, state, and federal partners, we stand strongly in our advocacy efforts for equal access to justice. We need local, village-based solutions to our challenges and services designed by and for Native women.

### Law Enforcement

Due to a lack of funding, our village has lacked adequate law enforcement for several years. The funding policy for public safety officers does not respect the unique needs of rural Alaska Native villages. The Association of Village Council Presidents has 30 village public safety officers, which is insufficient to cover all 56 villages in the region. There is no one to enforce tribal protection orders, so perpetrators are not afraid to violate those orders.

The closest Alaska state trooper post is 18 miles upriver from our village, accessible only by air and water. Because of funding constraints, the troopers only respond to the most pressing cases in our region. Response time ranges from 2 days to several weeks. Some crimes in our village involving children

receive no response. Troopers do not conduct safety checks for children referred by the Office of Children's Services unless serious physical harm occurs. This lack of follow-up poses a serious safety concern.

Domestic violence victims hesitate to report violence because they fear they will not receive help. Currently, our community members risk their lives to respond to life-threatening emergencies, even though they are not trained to do so. The rising crime rate in Nunam Iqua requires response from local law enforcement officers.

## Oglala Sioux Tribe

***The Honorable Darla Black, Vice President***

We thank DOJ for the work they have already done, but we need help. Violence against women is an epidemic, not just for indigenous people, but world-wide. By working together, we can begin to address this problem. We are all connected, and we need to partner toward achieving change.

### Response to Missing Indigenous Women

Today, women are seen as commodities and are sold through human trafficking. The Oglala Sioux Tribe supports Savanna's Act, which would improve the response to missing Native women and girls by streamlining data collection and sharing. If passed, the bill would improve tribal access to federal crime databases, create standardized reporting protocols, and develop interjurisdictional guidance on how to respond to these cases.

### Funding

The Oglala Sioux Tribe needs funding for a public defender, a key position in protecting the tribe's people. We need mechanisms for distributing funds that ensure tribes receive funding according to their level of need.

***The biggest problem we have is funding.***

### Victim-Centered Services

Many victims remain silent because they feel ashamed. Often, when women report being assaulted, they do not receive victim-centered treatment. I was one of those women. I wear scars across my nose and above my lip. When I reported being assaulted, I went to jail for my own safety. That practice needs to change. We need more women's shelters. The community of Pine Ridge only has one shelter, which is understaffed and underfunded.

### Law Enforcement

Our people are suffering from racism, including prejudice among law enforcement officers. We need law enforcement, prosecutors, and attorney generals to be accountable for protecting our people. We need to stiffen the penalty for violating tribal protection orders multiple times.

### Raising Awareness

In schools, we need to integrate teachings that help young men and women realize that violence is not acceptable.

## Recommendations

- Consult with tribes to develop protocols for investigating cases of murdered and missing Native women and provide TTA to tribal law enforcement on implementing these protocols.
- Increase TTA and enhance interjurisdictional partnerships with tribal police and prosecutors.
- Provide increased, consistent funding for domestic violence shelters.
- Expand tribal SDVCJ to include cases of murdered and missing Native people and ensure that jurisdiction applies to tribes in Maine and Alaska.
- Enhance the flexibility of funding, with more focus on the victims.

### ***Lydia Bear Killer, Oglala Sioux Tribal Council***

For a long time, denial of the existence of domestic violence posed a challenge in addressing violence. No one would discuss this topic, but today it is out in the open. Through our treaty, the federal government has a trust responsibility to provide funding and resources to help us combat violence.

## Funding

One size does not fit all when it comes to resources that support tribes in preventing violence against women. Federal regulations attached to the funding work against tribal interests since they often fail to align with our understanding of the issues and our approaches for resolving them. Because of funding restrictions, the Oglala Sioux Tribe lost our domestic violence shelter, which was our biggest resource for women.

Especially on rural reservations, tribes usually do not have access to resources provided through cities, counties, or states. Even though we try to consolidate our funding, it disappears quickly. The federal government continues to grant federal recognition to additional tribes but does not increase the amount of funding available to tribes. While tribes are grateful for the funds they currently receive, tribes and DOJ need to reexamine the funding formulas for Indian Country.

## Family and Community Violence

Our schools are dealing with children who come from violence in their homes and communities. Many issues stem from homelessness, or from many families living in the same household. We also face increased violence related to the men's camps for those working on the oil pipelines. In Rapid City, women are kidnapped frequently.

### ***Written comments from Jacqueline Ice, Victim Services Advocate***

Data shows that severe isolation; lack of housing; and high rates of poverty, suicide, and substance abuse define the social system of our Oglala Lakota people. We are now at epidemic proportions for domestic violence, sexual assault, elder abuse, and intimate partner abuse. We now observe abuse between and against Two Spirit people.

VAWA and TLOA have not had an effect on our reservation; thus, our women and children are vulnerable to unspeakable crimes by tribal members and non-Indian offenders. The Federal Bureau of Investigation (FBI) and U.S. Attorney's office work with the tribe, but statistics show that many cases go unnoticed and the perpetrators go unpunished.

## Sex Trafficking

Sex trafficking of our young girls and boys is undocumented on our reservation. If we had proper resources to track and investigate these allegations, we could prosecute and put preventative measures in place to combat this crime. We have no facility to provide long-term care for victims of sex trafficking. We need counseling and a safe place for survivors to go. Ending homelessness is central to fighting human trafficking.

## Housing and Services for Domestic Violence Victims

We are in dire need of a domestic violence shelter. Currently, we must transport our women and children hundreds of miles to a safehouse, at all hours of the night, and in all weather conditions. They are only permitted to stay there for 2 to 3 days. There are only three advocates and one men's reeducation coordinator/probation officer for the entire Pine Ridge Reservation. We need more advocates and probation officers to assist us in tracking the offenders who are arrested, and we need services to help victims of intimate partner violence heal and rebuild their lives.

## Murdered and Missing Women

We have missing and murdered women and men from our reservation. Currently, there are so many unsolved murders that the likelihood of them being solved is very low. We need to implement a database to track all of these victims and help protect our people.

## Pauma Band of Luiseño Indians

### *The Honorable Juana Majel-Dixon, Legislative Councilwoman*

P.L. 83-280 interferes with tribes' inherent right to exercise sovereignty over their own people and protect their citizens from violence. We cannot allow that to happen. We need to work together to move forward efficiently.

## Communication

Strengthening coordination will help tribes and DOJ offices avoid delaying one another. Currently, it is unclear who the tribal coordinator is for the Office of Justice Programs (OJP), and some grantees have only spoken with their grant officers once per year. It is important to ensure OVW personnel have tribal expertise and to acknowledge that the tribal affairs branch of OVW is different from others because it deals with sovereign nations. Tribes requested a tribal consultation regarding VOCA and offered many dates to accommodate the event. However, the tribal consultation still occurred at the last minute, and tribes only had 45 days to respond to the solicitation. Then, a communication breakdown hindered tribes in completing the VOCA funds application.

The internal structure of DOJ affects tribes directly. When each administration ends, that transition and loss of accumulated knowledge impacts tribes. DOJ and tribes need to work on improving these transitions to minimize the effects on DOJ's relationship with tribes.

## Database Access

We have a full tribal police agency and are involved in TAP. We have learned there is a lighter version and a more extensive version of TAP, and we plan to apply for the in-depth version because we are experiencing an increase in human trafficking. The Russian and Mexican cartels are infiltrating tribal lands. We also have full access to the California Law Enforcement Telecommunication System through

the state of California. The Originating Agency Identification (ORI) system is changing. Now, the federal government issues an ORI number that provides access to the system. This new approach is not common knowledge. VAWA affirms the need to create a National Tribal Sex Offender Registry. DOJ prioritized TAP over this registry, but it still needs to be developed.

### **Protection Orders**

Some states do not recognize tribal protection orders, which impacts implementation of the VAWA habitual offender clause.

### **Transitional Housing**

Because there is a lack of affordable housing in California, securing places where victims can seek shelter is difficult for California tribes. We work with the All Mission Indian Housing Authority to establish shelters. Grassroots movements help us relocate women to safe places, but the available funding is inadequate to cover the cost of transitional housing.

### **Law Enforcement**

Other law enforcement agencies need to understand the authority of tribal law enforcement agencies. We had a memorandum of understanding with a tribal jail in Nevada, and we transported perpetrators there. The county sheriffs would not allow our police cars to transport prisoners through the area because they mistook the vehicles for fake police cars.

### **Sex Trafficking**

We have guerilla trafficking, which does not involve prostituting victims, but rather kidnapping them and selling them for rape. Perpetrators often kidnap young people, between 9 and 11 years old. They stalk the victim's family beforehand to identify where they live, where they go, who they know, and so on. They document this information through photographs. When they kidnap a person, they show the victim these photos and tell them if they do not comply, their family will be murdered.

### **Domestic Violence**

When we talk about domestic violence, that includes spousal rape and domestic violence perpetrated by non-Indians. Our tribe has a zero-tolerance policy regarding violence. Many funding sources do not allow probation or rehabilitative programs for offenders, even though the perpetrator often needs healing.

***Our perpetrators live among us and have to heal among us. Unless we permanently banish them, they're still a part of our lives.***

### ***Bennae Calac, President, Strong Hearted Native Women's Coalition***

There is a new-found attraction to Native people now that others are learning we are real and we are still here. Social media contributes to this trend, which poses a danger to our young girls. We work to educate our young people about these issues. As Native people, we stay strong to our traditional ways of raising our young people, but we also have to deal with present-day threats like social media. Our young women approach me to ask how they should deal with this new attraction. To address these difficult times, it is important that we have a seat at the table when it comes to DOJ decisions and actions. We encourage OVW to visit tribal lands, as that is the only way to truly understand the obstacles we face.

## Restoring Ancestral Winds

*Yolanda Francisco-Nez, Executive Director*

I direct my comments specifically to President Trump and Attorney General Sessions in addition to the federal representatives at the tribal consultation. We appreciate the opportunity for nation-to-nation interaction.

### Domestic Violence and Sexual Assault

The violence against Native women is unacceptable.

An NIJ study found that more than half of AI/AN women have experienced physical violence by an intimate partner. Of these victims, 90 percent report being victimized by a non-Indian person. Justice is justice no matter a person's race or tribal affiliation, and we must continue to support tribes in prosecuting all offenders who perpetrate in Indian Country.

The nine tribes in Utah face increasing sexual assault and domestic violence. In Utah, one of three women are victims of sexual assault or domestic violence, and 40 percent of adult homicides are related to domestic violence. We know those rates are significantly higher among Native women in Utah, but federal agencies have not released the numbers.

In May 2016, an 11-year-old Navajo girl and her 9-year-old brother were abducted. The boy escaped, but the girl was sexually assaulted and viciously murdered with a tire iron. When she was reported missing, jurisdictional complexities led to a delayed response. Her mother has said that if effective law enforcement had been in place, her daughter might still be alive.

I am the granddaughter of a Navajo Code Talker. He fought for this country even though, as a little boy, he was taken away to a boarding school where he was forced to cut his hair, wear American clothes, and refrain from speaking his language. He was an American citizen who fought for our freedom. Native people are legitimate American citizens, many of whom make sacrifices because they love this country and deserve equal justice and equal funding to other Americans.

### Special Domestic Violence Criminal Jurisdiction

Fewer than 20 percent of tribes exercise SDVCJ. None of the tribes in Utah have implemented this jurisdiction. Many tribes lack the capacity to implement it. For example, they may struggle to hire judges with sufficient legal training or lack the technology to record proceedings.

### Law Enforcement

On the Utah side of the Navajo Reservation, there are no police departments, and some of the communities have no law enforcement presence at all. Law enforcement response to an incident of domestic violence or sexual assault can take up to 24 hours.

### Recommendations

- Reaffirm and support tribal criminal jurisdiction over non-Indian perpetrators of domestic violence and sexual assault for all tribes.
- Establish a federal workgroup to identify options for covering health care costs for non-Indian defendants in tribal courts.

- Increase funding to establish fully functional, victim-centered tribal court systems where offenders may be prosecuted regardless of their racial background or tribal affiliation.
- Create standards of protection for extractive industries to follow prior to, during, and after working in or near a tribal community to protect Native women and children. Include federal permitting processes in these requirements. Develop materials that specifically address the needs of domestic violence victims perpetrated against by extraction industry workers who local tribal authorities cannot hold accountable.
- Improve public safety mechanisms by consulting with tribes on system reform and increasing funding for tribal courts, law enforcement, and detention.

## Santa Clara Pueblo

### *The Honorable Michael Chavarria, Governor*

It is important to collaboratively identify and discuss all of the challenges and potential solutions in addressing violence against women. Tribes are sovereign political entities, not racial groups. Tribal nations have inherent powers of self-governance recognized by the U.S. constitution, treaties, federal Indian law, executive orders, and Supreme Court decisions. Tribal leaders need to work together, support one another, and leverage opportunities to speak about their concerns.

We support Savanna’s Act, which would improve tribal access to federal crime databases, create standardized reporting protocols, and develop interjurisdictional guidance on how to respond to these cases. However, we cannot wait for Congress to take action. Women need protection today. Standard protocols need to be designed immediately.

### Access to Services

The threats to our people begin in the womb due to restricted access to maternal health care services and safe housing, and those threats continue in the form of high rates of physical, emotional, and sexual violence; human trafficking; substance misuse; and suicide. Combined with jurisdictional complexities that limit public safety and victim services, these issues highlight an urgent need for additional resources and targeted political actions to protect tribal citizens and improve federal and tribal responses to violence.

The Santa Clara Pueblo has a strong relationship with the U.S. Attorney’s Office for the district of New Mexico. They play a pivotal role in addressing the violence epidemic in tribal communities. We have a robust tribal justice department and court system and are grateful for the federal funds that have supported the expansion of the tribal justice system. However, many tribal nations do not have their own justice departments, and few federal funding sources are available to support the startup process.

### Special Domestic Violence Criminal Jurisdiction

VAWA was a historical step forward in protecting Indian victims from non-Indian offenders in cases of domestic violence on tribal lands. Tragically, the existing law does not cover crimes against children or law enforcement personnel or sexual assault crimes committed by strangers. Because of these loopholes, we cannot enforce the rights of some of our most vulnerable community members in our tribal courts.

## Coordinated Tribal Assistance Solution

The Coordinated Tribal Assistance Solution (CTAS) initiative has helped tribes ensure they are applying for comprehensive federal support, thereby avoiding funding gaps and subsequent disruption to justice and victim services.

## Culturally Responsive Services

Tribal nations have consistently demonstrated that implementing programs using culturally responsive approaches leads to positive outcomes for individuals and communities. For example, placing offenders in facilities with culturally based rehabilitation services has reduced recidivism rates.

## Recommendations

- In the next reauthorization of VAWA, expand tribal SDVCJ over non-Indians to include crimes against children, crimes against law enforcement officers, and sexual assault.
- Continue to expand TAP so all tribal nations can access and exchange information using national crime information systems.
- Coordinate with tribes and tribal law enforcement departments to create standard protocols for responding to reports of missing women and girls.
- Continue the annual tribal consultation process.
- Require the U.S. Attorney's Office to contact tribal nations periodically regarding the status of criminal investigations or reports.
- Disburse funds as soon as possible to allow tribes sufficient time to internally process and expend the grant funds before the end of the fiscal year.
- Create a special program to assist tribes in establishing new tribal courts or justice services, including law enforcement departments.
- Maintain CTAS going forward and work with other federal agencies to identify and include other grant opportunities in a given purpose area.
- Ensure that all TTA, grant opportunities, and other initiatives to reduce violence in Indian Country are as culturally responsive as possible.
- Help educate the current administration and newly appointed federal leadership of the federal trust responsibility to tribal nations, including consulting with tribes as sovereign entities.

## Sisseton Wahpeton Oyate

*The Honorable Lois Owens, Tribal Council Member*

*Written comments from The Honorable Dave Flute, Chairman*

Our treaty with the United States recognizes our right to self-govern and adopt laws to protect the prosperity of our people. We encourage DOJ to continue these tribal consultations to build relationships and learn more about the unique tribal nations they serve. This understanding is vital for supporting tribes in protecting their citizens.

## Public Safety

Many studies show that American Indians and Alaska Natives suffer from violence at alarmingly high rates. Domestic violence is on the rise in our communities and is now the second most commonly prosecuted crime in the tribal court.

***The statistics regarding victimization in Indian Country are horrifying. Even more disturbing is the inability of tribes to exercise our inherent right to keep tribal members and our communities safe.***

Our tribe has implemented many federal public safety laws, including tribal provisions of the Adam Walsh Act, TLOA, TAP, and a pilot parole program in partnership with the South Dakota Department of Corrections. The tribe also established a tribal sex offender registry. Additionally, we were among the first five tribes to pilot SDVCJ implementation.

The tribe operated a BIA-commissioned detention facility under P.L. 93-638 contracts. In 2016, BIA closed the jail. The lack of a tribal or BIA detention center significantly thwarts our efforts toward public safety.

A legislative fix for the ruling of *Oliphant vs. Suquamish Indian Tribe* is crucial to improving public safety for Indian Country. This ruling created huge jurisdictional gaps. The best protection for the tribe, its members, and those working in and visiting Indian Country is for the tribe to have criminal jurisdiction over non-Indians for crimes committed in Indian Country.

### **Services for Victims**

Three years ago, my 14-year-old relative was raped. The case finally concluded about 2 months ago. If it had not been for my training at a rape and abuse center when I was in college, I do not think we would have been able to address everything that transpired throughout the case. We need regional women's networks that can help victims deal with these situations and heal.

### **Tribal Grants for SDVCJ**

The grant description should delineate between tribes implementing and tribes sustaining SDVCJ. Clearly state in the announcement and description that tribes that are implementing SDVCJ are given equal consideration to those sustaining it if that is the case. A recent VOCA grant application involved multiple rounds. Tribes submitted concise applications for the first round and, if they were selected for the second round, completed longer applications. This approach helped tribes focus their time and resources toward work on the ground and grants for which they would be considered.

### **Tribal Jurisdiction Program Funds**

The unspent Tribal Jurisdiction Program funds could be used in the following ways.

- Start a fund to cover medical expenses of non-Indian perpetrators detained by tribes.
- Start a fund to cover detention costs of non-Indian perpetrators detained by tribes.
- Help tribes establish treatment programs for batterers.
- Offer comprehensive training to support tribes in implementing best practices for preventing future violence.
- Roll funds over to the next cycle and offer more grants.

## StrongHearts Native Helpline

***Lori Jump (Sault Ste. Marie Tribe of Chippewa Indians), Assistant Director***

The StrongHearts Native Helpline, a partner project of the NIWRC and the National Domestic Violence Hotline, launched in 2017 to support survivors of domestic violence. While we assist anyone who calls us, our project was designed by and for Native Americans. Currently, our hours of operation are limited, and callers who contact us after hours are transferred to the National Domestic Violence Hotline. We are the first national hotline in Indian Country, and we offer culturally focused services specifically for American Indians and Alaska Natives affected by domestic violence.

***One of the first questions that many of our callers ask is whether our advocates are Native, and when they hear that the answer is yes, it opens the floodgates. We hear how thankful they are not to have to explain who they are and how being Native impacts their victimization and survivorship.***

Our advocates offer validation and empowerment, crisis intervention, safety planning support, and information and referrals. Our goal is to connect the caller with culturally appropriate resources in their community.

We maintain a database of programs across the United States that offer culturally appropriate services for American Indian and Alaska Native victims of violence. To gather this information, our staff contacted every tribe in the United States, including state-recognized tribes. This research revealed what we have always known but struggled to prove: there is a serious resource disparity in Indian Country. There are huge swaths of land where no resources exist for our people. We often have to refer our callers to non-Native programs, and while we are thankful for those programs, they do not always understand the specific barriers our people face.

### Recommendation

- Continue to increase funding for programs that promote safety, justice, and healing for American Indians and Alaska Natives.

## Uniting Three Fires Against Violence

***Rachel Carr (Sault Ste. Marie Tribe of Chippewa Indians), Executive Director***

Uniting Three Fires Against Violence is Michigan's tribal domestic violence and sexual assault coalition.

### Special Tribal Criminal Jurisdiction

While the 2013 reauthorization of VAWA was a significant victory toward tribes' inherent right to govern and protect their citizens, the legislation contains some shortfalls. The Sault Ste. Marie Tribe of Chippewa Indians implemented SDVCJ. However, only including crimes of domestic violence in that jurisdiction creates gaps that allow perpetrators to continue harming our citizens.

For example, a non-Native man in a relationship with a tribal member began harassing the woman's 16-year-old daughter. He sent inappropriate text messages, made unwanted sexual advances, watched her through her window, and groped her on one occasion. Our tribe tried to protect her by characterizing his actions toward her as domestic violence, but the tribal judge dismissed the case as beyond the court's jurisdiction. The girl's mother attempted to obtain a protection order to protect herself and her

daughter but did not appear in court, perhaps due to fear of retaliation. Four months later, state law enforcement arrested the man for kidnapping a 14-year-old tribal member, holding her in an off-reservation hotel, and repeatedly raping her. If the tribe could have initially charged him for his actions toward his girlfriend's daughter, we may have prevented him from victimizing this other girl.

***Special domestic violence criminal jurisdiction is not enough. It is not enough for that family. It is not enough for that 14-year-old girl. It is not enough for our communities.***

## Funding

A permanent tribal set-aside under VOCA would ensure that tribal nations, like other governments, can appropriately respond to the needs of all victims within their communities.

The Michigan state statute regarding administration of STOP funds explicitly excludes tribes as eligible entities. After continued advocacy and education, it was recently announced that Michigan tribes will be eligible for this funding for the first time. However, it does not appear that Michigan is considering a legislative fix for this issue, leaving tribes at risk for possible future exclusion for these funds.

The competitive nature of current funding structures pits tribes against one another and often results in inadequate funding for tribes that already lack resources. While DOJ should examine formula funding as an option, it is imperative to recognize that tribal nations have the right to supply their own population numbers, rather than census numbers. The U.S. Census has historically undercounted American Indians and Alaska Natives.

Currently, tribal coalitions cannot access FVPSA funds directly. Tribal coalitions have specific knowledge and expertise on domestic and sexual violence in Native communities. To provide culturally appropriate training and resources for tribal programs, the coalitions need to access FVPSA funds.

## Recommendations

- Expand SDVCJ to include crimes of sexual assault, family violence, and other crimes related to domestic violence, including crimes against children, first responders, and criminal justice personnel.
- Ensure that all tribes, including those in Alaska and Maine, can implement SDVCJ.
- Promote a legislative fix to ensure Michigan tribes are eligible for STOP funds.
- Establish a permanent tribal set-aside for VOCA funds in consultation with tribes.
- When administering tribal funds, begin the application and award processes earlier in the year to ensure that tribes have access to the funds as soon as the fiscal year begins.
- Permit tribal coalitions to directly access FVPSA funds.
- Review, revise, and create law enforcement and justice protocols appropriate to the disappearance or murder of Native women and girls.
- Provide increased victim services to the families and communities of missing and murdered indigenous women and girls.
- Coordinate efforts across federal departments to increase the response to the disappearance or murder of Native women and girls.
- Coordinate efforts in consultation with tribes to increase the response of state governments to cases of missing and murdered Native women and girls, where appropriate.

## Wabanaki Tribes of Maine

### *Oral Testimony:*

- *Jane Root, Executive Director, Wabanaki Women's Coalition*
- *The Honorable Catherine St. John, Councilwoman, Houlton Band of Maliseet Indians*
- *Donna Brown (Penobscot Indian Nation), Outreach Coordinator, Wabanaki Women's Coalition*

### *Written Comments:*

- *The Honorable Edward Peter-Paul, Tribal Chief, Aroostook Band of Micmacs*
- *William J. Nicholas, Sr., Indian Township Passamaquoddy*

The five Wabanaki tribes of Maine include:

- Aroostook Band of Micmacs
- Houlton Band of Maliseet Indians
- Indian Township Passamaquoddy
- Penobscot Nation
- Pleasant Point Passamaquoddy

Leaders from the Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, and Indian Township Passamaquoddy provided testimony, and Ms. Root and Ms. Brown offered comments on behalf of all the Wabanaki tribes. Because these tribes share many concerns and recommendations, their testimonies are summarized together below.

### **Barriers to VAWA Implementation for Maine Tribes**

The Maine Implementing Act and Maine Indian Claims Settlement Act of 1980 impede the full implementation of VAWA by tribes in Maine. These acts created a mechanism for overriding the framework of federal Indian law by two provisions: Section 1735(b) and Section 1725(h). Specifically, the interpretation of these provisions prevent federal laws enacted for the benefit of Indian Country after October 10, 1980, which affect or preempt the state's jurisdiction, from applying in Maine. The law impedes Wabanaki tribal courts from exercising SDVCJ. To surmount this barrier, VAWA needs to explicitly state that its provisions apply to tribes in Maine. The Wabanaki tribes have repeatedly asked OVW to give attention to our unique barriers and support a legislative fix that would fully implement VAWA for tribes in Maine.

*As we work toward the next reauthorization of VAWA, we implore you to make the fix that will ensure that all victims in all American Indian and Alaska Native communities have the protections and services afforded by VAWA and TLOA.*

### **Access to Federal Criminal Databases**

TAP is a step in the right direction, but only a select few tribes have been granted access. The program needs to be expanded and fully funded to provide all tribes with access to NCIC. When tribal courts in Maine issue protection orders or convictions, the tribes must rely on others to enter that information into the databases. If that information is not added correctly or in a timely matter, state judges may see the offender in court without being aware of prior convictions or existing protection orders.

## FVPSA Funding

In the past, FVPSA asked tribes to provide input on whether the base allocation should change. The Wabanaki tribes have repeatedly responded that the base allocation should be increased to \$25,000 for the lowest funding allocation bracket, which comprises most tribes. We would like to know how other tribes responded to this inquiry.

## Transitional Housing

Current OVW policy on transitional housing assistance requires the victim to relocate to qualify for assistance. This requirement is counter to victim-centered practices, which would involve removing the abuser from the home so the victim can stay. Transitional housing assistance should be available for victims who remain in their homes but can no longer afford rent or utilities when the abuser relocates.

Transitional housing program staff are now required to receive permission from the program manager to provide furniture assistance to transitional housing participants. An additional challenge to furniture assistance is that participants are required to return furniture to the program once they are no longer in the transitional housing assistance program. Our programs do not want to ask to be responsible for taking away a child's bed, and further, we have nowhere to store that furniture.

## Tribal Coalitions

Tribal domestic and sexual violence coalitions provide TTA and resources in 18 regions across Indian Country. Overall, funding for tribal coalitions need to be increased so more coalitions may be established without taking funds away from existing coalitions.

## VOCA Funding

Under the current system of VOCA funding distribution, it is estimated that less than 0.5 percent of the funds reach tribes. The 2018 VOCA tribal set-aside is a step in the right direction as far as supporting tribes in increasing victim services. However, this funding will not be reliable in the future, as Congress would have to add it to the budget each year. The Securing Urgent Resources Vital to Indian Victim Empowerment (SURVIVE) Act would make increased distribution of VOCA funds to tribes a permanent fix.

## Response to Missing and Murdered Indigenous Women

We support Savanna's Act as a starting point to enhance the response to missing and murdered Native women. This legislation would improve tribal access to federal criminal databases, require data collection on missing and murdered Native people, and direct the Attorney General to revise and develop law enforcement and justice protocols to address missing and murdered indigenous people.

## Tribal Justice Systems

Last year, BIA released a report that identifies \$2 billion in unmet need for tribal law enforcement and courts. Currently, BIA is meeting only 40 percent of the need in law enforcement funding and 6 percent of the need in tribal courts.

## Recommendations

- Include the following language in the next reauthorization of VAWA: "The tribal provisions of the 2018 reauthorization of the VAWA, all previous tribal provisions, and all subsequent tribal provisions shall apply within the state of Maine."

- Expand TAP to provide all tribes with access to federal criminal databases.
- Increase the FVPSA funding base allocation to \$25,000.
- Remove the word *relocate* from the VAWA transitional housing assistance provision.
- Revise the rule that requires program manager approval for furniture assistance and the return of furniture to the program.
- Increase overall funding for the establishment of tribal coalitions.
- Increase the FVPSA base allocation to \$25,000.
- Increase the FVPSA tribal set-aside from 10 percent to 15 percent.
- Include tribal coalitions in FVPSA funding distribution.
- Because the federal government has a heightened trust obligation to tribes, Congress-mandated rescission of funds should not apply to tribal programs.
- Expand SDVCJ under VAWA Section 904 to provide tribes with criminal jurisdiction over non-Indian perpetrators of domestic violence, sexual assault, dating violence, and stalking.
- Incorporate the SURVIVE Act into the 2018 VAWA reauthorization.
- Declare May 5 an annual day of mourning for murdered and missing indigenous women and children in the United States.
- Include a permanent 5 percent direct allocation for tribes in the VOCA budget.

## White Mountain Apache Tribe

### *The Honorable Gary Alchesay, Councilman*

Growing up on a ranch, I witnessed violence at a young age. Alcohol was a major factor. The Apache traditional values strongly disapprove of violence toward family members, especially women and children. The erosion of Apache tradition and the rise of drug and alcohol use have led to violence. Domestic violence, child abuse, and homicide have steadily increased on our reservation. We must protect the safety of all people in our jurisdiction, and we need to address this need through tougher laws and better education and services. We need to uphold tribal laws and traditions while maintaining modern professional standards.

Domestic violence endangers the mental and physical wellbeing of our people. The White Mountain Apache Tribe enacted a domestic violence code as part of the tribal criminal code in 1998. Our policy is to exercise the maximum protection that the law can provide to hold the perpetrator accountable. In the past year, there was an increase in the number of protection orders we granted.

Often, we focus so heavily on prosecution that little thought is given to developing a strategic plan for preventing violence. The White Mountain Apache Tribe educates the community about the immorality of hurting our women and children and we provide people with tools to change their behavior or heal from violence.

***The healing process must begin by educating the communities about how to change behaviors and strengthen their resiliency so the violence may end.***

# Winnebago Tribe of Nebraska

*The Honorable James Snow, Tribal Council*

*Written comments from The Honorable Frank White, Chairman*

## Domestic Violence

Victims of domestic violence endure hardships and pain because of their love for their children and partner. Often, victim service programs require the victim to be a resident of the reservation or village for a certain length of time to receive services, but, sometimes, when a woman leaves an abusive situation, she leaves everything and moves to another town or state.

When we talk about violence against women and children, the men need to be involved, too. Batterer intervention programming is essential to breaking the cycle of violence in tribal communities. These programs act as both intervention and prevention since they apply trauma-informed approaches to educating perpetrators about the personal thoughts, beliefs, and behaviors that contribute to their violent actions. The tribal government self-governance grants category under CTAS is one of the only funding opportunities for batterer intervention programming.

More and more men are victims of violence. They often have nowhere to go. Our domestic violence program assisted a male victim who fled his home with his children after receiving death threats from his wife. These men need access to the same services as women and children who experience violence.

## Addressing Community Issues

Many issues in our communities, such as poverty, unemployment, and high rates of disease, act as setbacks in preventing violence and enhancing quality of life. We have children who are born addicted to meth or with health issues due to maternal opioid use. As tribal leaders, we need to adjust our tribal codes to deal with these issues.

## Housing

With the funding we have received, we turned an old building into a women's shelter and we assist victims in reestablishing their lives, such as through housing assistance and job training. Our domestic violence/sexual assault program offers a hotel stay for victims, but due to the expense, we can only cover 2 weeks of lodging and food. We hope to establish a second domestic violence shelter so we have one for women and one for men, but we currently have no resources to fund this project.

## Training

We need more training for tribal court and law enforcement personnel, so they can present solid cases and attain convictions. Failing to convict the perpetrators makes the defendants and their families feel like they do not matter and affirms their fears that the offender would not be held accountable. Victims often retract their initial statements out of fear, so it is important that the courts know how to handle that situation.

## Prevention Education

The Winnebago Tribe is viewed as successful, but our unemployment rate is 50 percent. Other tribes in the area have even higher unemployment rates. Encouraging children to stay in school is difficult when they see that there are no jobs for them to pursue. However, education is key to disrupting intergenerational trauma, and that education starts in the schools.

## **Tribal Jurisdiction**

While VAWA 2013 was a leap forward in recognizing tribes' inherent sovereignty, it is not enough. Tribal prosecutorial authority is too narrow to address all issues related to intimate partner violence. To best protect tribal citizens and those who live on, work on, or visit tribal lands, tribes must have jurisdiction over non-Native people who commit crimes in Indian Country. Currently, we have domestic violence victims living in fear because their abuser is non-Native and cannot be held accountable.

## **Human Trafficking**

Tribes desperately need funding specifically for dealing with human trafficking. Data on this crime is difficult to gather, since no federal report provides data on tribal trafficking victims. No one comes to our office and says, "Help me, I'm being trafficked." Often, the trafficking victims we work with do not realize until later that they have been trafficked.

Our reservation is close to two interstate highways and the borders of two other states, which makes taking victims from our lands to other jurisdictions easy. We recently learned that a young woman from our reservation was taken to Iowa, only 17 miles from our reservation, where she was trafficked from age 10 to age 17.

Transgender Natives are very marketable for sex trafficking. Many American Indians and Alaska Natives are marketed as Asian or Latino, which means our people are highly sought after. The perpetrators target areas with high rates of poverty and chemical dependency. They know that many cases of missing or exploited women and children go unreported.

A local women's shelter advised us against housing domestic violence victims with human trafficking victims. Though these victims face some similar struggles, their mentalities are different. Further, trafficking victims often include not just women, but also children and members of the Lesbian, gay, bisexual, transgender, and queer (LGBTQ) community. We need shelters specifically for housing victims of trafficking.

## **Missing and Murdered Indigenous Women**

Our people go missing at an alarming rate, and we would not hear about many of these cases without social media. OVW funding does not cover cases of murdered and missing women unless the cases fall under intimate partner violence. There is no known number of how many of our women and children are missing because of violent crimes.

## **Recommendations**

- Provide additional flexible funding for tribal governments that can support male victims of violence.
- Support legislation that affirms tribal authority to address sexual assault, stalking, and child abuse crimes that co-occur with domestic violence.
- Provide specific funding for assisting victims of human trafficking, including funds for shelters designed for these victims.

## Yankton Sioux Tribe

*Charon Asetoyer, CEO, Native American Community Board*

The Native American Community Board oversees the Native American Women's Health Education Resource Center on the Yankton Sioux Reservation. We have a domestic violence shelter, transitional housing project, and men's education program. We also do policy work. We launched the initiative that added language in TLOA concerning standardized sexual assault protocols within IHS emergency rooms. We also worked to ensure IHS emergency rooms can provide emergency contraceptives.

### Domestic Violence Cooling Off Period

In domestic violence cases, a 3-day cooling off period involves incarcerating the perpetrator for 72 hours to protect the victim while she does what she needs to do to protect herself, such as packing her things and relocating to a shelter. In discussions with the BIA Office of Justice, we were surprised to learn that tribal facilities can hold non-Native perpetrators for a cooling off period. We have unequal protection because those who oversee tribal law enforcement are not communicating these protection options to the tribes. So instead of detaining the perpetrator for 3 days, we have driven them to the reservation border and dropped them off. They usually double back and perpetrate again, and sometimes they kill.

### Investigations of Violence Involving Substance Use

If a Native woman is raped or killed, if investigators discover that she is intoxicated, no intense investigation occurs. Last winter, my niece was found dead and frozen. Local law enforcement did not investigate when she went missing, so the family searched for her and found her body. It was clear that she had been placed where she was found. She did not simply pass out and freeze to death. However, law enforcement did not investigate further. It should not matter if a person is drunk or high; they deserve to have the crime investigated just like anyone else. I am appalled that the federal agency entrusted with protecting our people has the attitude of "just another drunk Indian."

### Sexual Assault

Our health care provider cannot account for the number of rape kits issued. They say they do not count how many rape kits are done on our women.

Since TLOA passed 8 years ago, the child maltreatment policy, which would govern protocols when a child is sexually assaulted, has not been implemented. Failing to implement those policies 8 years after they were written is unacceptable. Tribes and advocates need to be involved in reviewing those policies.

### Recommendations

- BIA should send a memo to tribal governments clarifying that they can detain non-Native perpetrators of domestic violence for a 3-day cooling off period.
- Include input from tribal governments and victim advocates in implementing a child maltreatment policy under TLOA.

## ***Faith Spotted Eagle, Educator***

### **Importance of Long-Term, Flexible Funding**

Injury of the soul or spirit requires long-term recovery; it cannot be solved during a 3-year grant cycle. A person who suffers sexual assault experiences a theft of their spirit, which leaves them in a prolonged state of shock and numbness.

***When I suffered an assault, I was 22 years old. I'm still working on it. If I went to a 3-year program and never did anything else, I probably would be dead, but my culture was able to bring me this far.***

Short-term services will never touch the depths of that injury, especially when it is layered on top of poverty, community violence, witnessing perpetrators walking around the community unpunished, and historical trauma. The historical trauma from which the people of the Northern Great Plains are suffering is actually recent. Our infrastructures were destroyed only 150 years ago. Successful programs take time to develop, so a tribe may have a brilliant idea for a program but not have the chance to demonstrate its success within a short-term window. They then lose the funding and the program goes away. Funding needs to be long-term.

We have cultural interventions for long-term healing that have proven their worth over many years. We need the flexibility to implement those approaches. Erasure of our culture occurs through excluding us when making decisions about which approaches can be applied. Many federal government structures still contain internalized misogyny. Misogyny also creates erasure, as it discourages women and girls from speaking up. Perpetrators do not suddenly decide to offend one day; a system creates those perpetrators over time.

The Brave Heart Society, our grassroots program, does not accept federal funds because of the misogyny and colonialism present in federal funding structures. We talked to grandmothers across the country to ask what it takes to be a female leader. They told us you must listen to your aunt, grandma, and older sisters. We cannot always talk to them because they are often impacted by the substance use and poverty that have grown out of economic decisions made by people outside the tribes. Rebuilding these resources to strengthen our communities will take long-term funding and effort.

### **Recommendations**

- Provide long-term funding.
- Examine the gatekeepers of federal systems and work toward rooting out attitudes that promote erasure of tribal people and women.

# Written Testimony

OVW welcomed written input from tribal delegates following the event through October 22, 2018, to ensure tribal delegates who were unable to attend the tribal consultation could offer input. Some of the tribes represented at the tribal consultation also submitted written testimony to expand upon or reiterate the comments they made at the event. Concerns and recommendations from these written submissions are incorporated into the summarized testimony above.

In total, OVW received 16 stand-alone written statements from tribal delegates or representatives of American Indian and Alaska Native organizations. These testimonies are presented in the following sections, alphabetized by tribe or organization name.

## Alaska Federation of Natives

### ***2018 Annual Convention Resolution 18-10***

TITLE: Supporting Changes in the Alaska Statutes to Make the Conduct Involved in the Recent Case Involving an Assault on a Native Woman a Sex Offense and Support for a General Review of the Alaska Statutes Regarding Sex Offenses by the Criminal Justice Commission

WHEREAS: The Alaska Federation of Natives is the largest statewide Native organization in Alaska and its membership includes 186 federally recognized tribes, 177 village corporations, 12 regional corporations, and 12 regional nonprofit and tribal consortia that contract and run federal and state programs; and

WHEREAS: The mission of AFN is to enhance and promote the cultural, economic, and political voice of the entire Alaska Native community; and

WHEREAS: The Alaska Native Justice Center (ANJC) was founded 25 years ago to address inequities in the justice system with regard to Alaska Native people, in particular the lax treatment of cases involving Alaska Native women; and

WHEREAS: In 2016, the National Institute of Justice reported that 56.1 percent of American Indian and Alaska Native women have experienced sexual violence and 90 percent experienced sexual violence by a non-Native perpetrator; and

WHEREAS: In 2017, the Alaska Department of Public Safety reported that 54 percent of Alaska's sexual assault victims are Alaska Native; and

WHEREAS: Amnesty International reported that "the USA is currently failing to act with due diligence to prevent, investigate, and punish sexual violence against Native American and Alaska Native women;" and

WHEREAS: The conduct involved in the recent case in which a defendant strangled a Native woman and ejaculated on her, the latter of which is not considered a sex offense under current Alaska law; and

WHEREAS: Changes to the Alaska statutes are needed to make the acts involved in the recent case a sex offense; and

WHEREAS: The Governor's Office, the Criminal Justice Commission and the Legislature have indicated their intent to change the law to make these acts a sex offense with a longer sentence.

NOW THEREFORE BE IT RESOLVED that AFN supports a review of the current state of Alaska sex offense statutes by the Criminal Justice Commission and changes to the Alaska statutes that will make the acts and conduct involved in the recent case a sex offense; and

BE IT FURTHER RESOLVED by the delegates of the 2018 Convention of the Alaska Federation of Natives, that AFN supports changes in the law that will make these acts a sex offense; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of AFN until it is withdrawn or modified by subsequent resolution.

***2018 Annual Convention Resolution 18-11***

TITLE: Calling for an Outside Investigation of the Disparate Treatment in the Alaska Criminal Justice System of Cases Involving Alaska Native Offenders and Victims

WHEREAS: The Alaska Federation of Natives is the largest statewide Native organization in Alaska, and its membership includes 186 federally recognized tribes, 177 village corporations, 12 regional corporations, and 12 regional nonprofit and tribal consortia that contract and compact to run federal and state programs; and

WHEREAS: The mission of AFN is to enhance and promote the cultural, economic, and political voice of the entire Alaska Native community; and

WHEREAS: The Alaska Native Justice Center (ANJC) was founded 25 years ago to address inequities in the justice system with regard to Alaska Native people, particularly the lax treatment of cases involving Alaska Native women; and

WHEREAS: In 2016, the National Institute of Justice reported that 56.1 percent of American Indian and Alaska Native women have experienced sexual violence and 90 percent experienced sexual violence by a non-Native perpetrator; and

WHEREAS: In 2017, the Alaska Department of Public Safety reported that 54 percent of Alaska's sexual assault victims are Alaska Native; and

WHEREAS: Amnesty International reported that "the USA is currently failing to act with due diligence to prevent, investigate, and punish sexual violence against Native American and Alaska Native women;" and

WHEREAS: Recent and historic cases indicate that the Alaska justice system, including the Alaska Department of Public Safety, police agencies across the state, the Alaska Criminal Law Division, and the Alaska Court System, and Office of Victim's Rights, continue to allow cases involving Alaska Native victims to go uninvestigated or under-investigated and either unprosecuted or under-prosecuted; and

WHEREAS: Alaska Native victims deserve the same level of attention in the criminal justice system as any other victim, regardless of their socio-economic status; and

WHEREAS: The levels of investigation, charging, bail, and sentencing have shown a disregard for the seriousness of sexual assault and violence against Alaska Native women, regardless of the legal limitations on charging the case as a sex offense; and

WHEREAS: There is no data on investigation, charging, bail, plea bargain and sentencing decisions where the offender is non-Native and the victim is Native; and

WHEREAS: There are demonstrated cases where the focus is strictly on the offender with a complete lack of consideration of the victim; and

WHEREAS: There are serious and significant questions about how the Alaska justice system, including, law enforcement, prosecutors, and judges, assess and prosecute offenses committed by and against Alaska Native offenders and victims, particularly when the offender is non-Native and the victim is Native.

NOW THEREFORE BE IT RESOLVED that AFN is troubled by the investigation, charging, bail, and sentencing decisions in cases involving Alaska Native offenders and victims; and

BE IT FURTHER RESOLVED that AFN does hereby call on the Governor's Office to institute an external investigation into law enforcement and prosecutorial and sentencing discretion exercised with regard to Native offenders and victims; and

BE IT FURTHER RESOLVED that AFN does hereby request that the Governor's Office include Alaska Native representatives as a vital component of any such investigation; and

BE IT FURTHER RESOLVED, that AFN does hereby call on the Alaska Judicial Council to commence a study of charging and sentencing in cases involving non-Native offenders and Native victims, in comparison to Native offenders and non-Native victims; and

BE IT FURTHER RESOLVED by the delegates of the 2018 Convention of the Alaska Federation of Natives, that AFN requests support for victims of crime to adequately respond to the charges involving them, regardless of their socio-economic status or culture; and

BE IT FURTHER RESOLVED that this resolution shall be the policy of AFN until it is withdrawn or modified by subsequent resolution.

## **Anvik Native Village**

### ***The Honorable Nathan Elswick, Second Chief***

I was born in the Village of Anvik and have lived there my entire life, and I have been an advocate for our tribal members.

The Anvik Tribe is a Deg Hit', an Athabascan community with a rich history. We are located on the west bank of the Yukon River in the Interior of Alaska. We are an isolated tribe with 378 enrolled members and fewer than 100 members living in our traditional lands. Access to Anvik is by small plane, boat, or snow machine.

At this point in time, we have no law enforcement, and we have a vacant position for a village public safety officer. We have a COPS grant for a tribal police officer, but that position is now vacant. The officer recently resigned because of a domestic violence call that went terribly wrong. Again, we are back to the drawing board to provide basic public safety services to our tribal members.

State troopers posted in a hub community an hour and a half away by plane are responsible for responding to calls. Three troopers are on call for 46 villages. Anvik often has impassable weather for

days. The unique conditions that exist in Alaska demand that we become creative in our ability to provide a local response.

Alaska Native women suffer the highest rates of domestic and sexual violence. Federal and state governments must set aside equitable resources for Alaska tribes to develop, implement, and sustain local, culturally relevant solutions to immediately and comprehensively address the health, safety, and welfare of victims and village residents. The funding left over from SDVCJ grants is the perfect opportunity to begin to remedy this issue.

Historically, the federal government and the state of Alaska have not allocated resources to Alaska tribes, including the villages in our area. In fact, both governments have supported laws, policies, and funding practices that have limited the authority and capacity of Alaska tribal governments to protect and ensure the health and well-being of our members and citizens. One such example is the unwritten BIA policy to not fund law enforcement for tribes in P.L. 83-280 states, based on the assumption that those states will provide law enforcement and justice services for tribes. Another example is the state of Alaska's failure to recognize tribal governments as eligible to apply for state funding to address violent crimes. These limitations create an extremely dangerous environment for Alaska Native women who are continually targeted for all forms of violence.

### **Recommended Pilot Program**

We recommend that DOJ direct the remaining funds from the Grants Program for Special Domestic Violence Court Jurisdiction to Alaska and create a pilot project that encourages intergovernmental agreements between the state and Alaska tribes focused on cooperative enforcement of domestic violence and drug and alcohol laws. Four to six selected tribes would participate in an intertribal working group. NCAI, the Tribal Law and Policy Institute, and ANWRC would provide technical assistance.

The group would begin by planning the development of written tribal laws and ordinances, enforcement mechanisms, and tribal court structuring. Next, the tribe would seek certification of their plan from DOJ. The certification would include a plan for enforcing domestic violence laws and identify aspects of drug- or alcohol-related matters the tribe proposes to regulate, including 18 U.S.C. § 2265, and the territory within which the tribe proposes to enforce those regulations. In certifying the tribe's plan, the federal government would affirm the tribe's inherent authority to enforce tribal laws among all AI/AN people and others who are subject to SDVCJ, as defined in 25 U.S.C. § 1304. Court plans could include restorative justice, community service, fines, forfeitures, commitments for treatment, protection orders, temporary exclusion from the village, and emergency detentions.

There could be a second phase that would include focus and grants to encourage cross deputation of tribal law enforcement officers by the state, searches and seizures of alcohol and drugs at municipal and state airports, and the detention of offenders.

This program would be a good step toward addressing the disproportionate rates of violence committed against Alaska Native women and girls. Too many of our villages have few, if any, resources to provide meaningful action to address these issues. Our women and children can no longer wait for action from the state, which prioritizes the enforcement of wildlife laws over those designed to protect women and children.

## Gaps in Law Enforcement and Judicial Services

Historically and currently, there is a consistent pattern of inadequate law enforcement response, including lack of comprehensive infrastructure to address safety from and accountability for the extreme levels of domestic and sexual violence in Alaska villages. The state of Alaska has failed in its responsibility to provide adequate and timely law enforcement and judicial services to rural areas. Frequently, the only people standing between women who need protection and their abuser are the local community members. Consequently, the life of a woman often depends on the local community's willingness to provide immediate protection and assistance. As the Indian Law and Order Commission's 2013 report to the president and Congress noted, "many of the 229 federally recognized tribes are villages located off the road system and more closely resemble villages in developing countries than small towns in the lower 48."

We continue to strongly support the Indian Law and Order Commission's recommendation of recognizing "local control and accountability" for Indian tribes regarding the public safety and welfare of tribes and villages. The only way to ensure that rural Alaska women and their children can enjoy basic human rights to safety and protection against all forms of violence is to develop a local response to the serious problems we face. Currently, villages without local law enforcement must rely solely on Alaska state troopers, who may be hours or even days away, making adequate and timely law enforcement response often impossible. We believe that the lack of adequate, timely responses to the epidemic levels of violence against Alaska Native women and children is an additional rights violation and falls short of the United States' commitments under the United Nations Declaration of the Rights of Indigenous Peoples.

## Further Recommendations

- Support the authority of Alaska Native villages to design and carry out local, culturally relevant solutions to address the lack of law enforcement and judicial services in villages. Recognize and empower tribal courts through funding and agreements with the state that do not involve waiving our sovereign immunity.
- Provide training and funding directly to Alaska Native village governments for the village police officers, village public safety officers, and Alaska state troopers who serve as immediate responders to crimes that occur in Alaska Native villages. This collaboration and training is critical to implementing culturally appropriate responses for tribal communities in Alaska.
- Without waiving tribes' sovereign immunity, make the COPS training grant more inclusive so it covers the type of training necessary for effective policing of Alaska Native communities. Law enforcement that is created and administered by Alaska tribes will be more responsive to local needs.
- Work closely with Alaska Native villages to address habitual and serial perpetrators of domestic and sexual violence who continue to walk free within the villages.
- We urge DOJ, DOI, and HHS to seriously consider their history of not allocating sufficient, if any, resources for the 40 percent of the nation's federally recognized tribes that are located in Alaska. We request a report that details how much funding Alaska's tribal governments have received from these departments and, more importantly, how the departments will change this practice moving forward.

## Responses to Missing and Murdered Native Women

Since 2003, tribal leaders have raised the inadequate response of law enforcement agencies to missing persons reports regarding Native women. These cases are often abduction, rape, and domestic violence homicide cases. The state of Alaska cut its cold case unit, which was responsible for investigating some cases of missing and murdered Native women.

We urge DOJ to establish a high-level working group, including ANWRC, NIWRC, the Indian Law Resource Center, and the NCAI Task Force to develop and institute a training protocol and alert system to improve the current response to missing persons cases. An example of such groups is the President's Interagency Task Force to Monitor and Combat Trafficking in Persons.

## National Order of Protection Registry

Our community has an active tribal court and issues protection orders on a case-by-case basis. There is no state court in the village, only in the hub community of Aniak. Going through the state court to obtain a protection order thwarts meaningful access to justice for victims. Often, this process is so complicated and slow, the victim becomes frustrated and decides not to go forward. The process to obtain an order can take several weeks. If the magistrate is not available in Aniak, the draft order must be faxed to a magistrate in a different region. We do not know of any protection order ever entered into the National Order of Protection Registry.

We recommend that DOJ create a TAP specifically for Alaska. Currently, only one of the 229 Alaska tribes can use TAP.

## STOP State Consultation with Alaska Tribes

After review of the STOP requirement to consult with tribes, we are concerned that the state may have failed to comply with their obligation to consult with tribes in developing the state's FY 2014 STOP 3-year implementation plan. According to the requirement and our analysis, the state did not provide appropriate notice to the Village of Anvik, nor did they properly consult and coordinate with the village in deciding how to develop and implement the plan. We understand that OVW froze the state's funding last year due to non-compliance with this requirement. Since then, we have not received any update about how the state has achieved compliance.

Although the 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," we question the validity of that meeting as a tribal consultation, as required by VAWA 2013. While Ms. Hootch repeatedly expressed concerns and strongly advocated for the outstanding needs of Alaska Native villages, we are concerned that the state's STOP plan does not reflect our concerns or the critical needs of Native villages and Alaska Native women.

As we continue to experience the highest rates of domestic and sexual assault incidents, it is more important than ever that we increase our collaboration efforts and ensure that resources are provided to all women in Alaska, including Alaska Native women in the remote villages of Alaska. At this time, our women stay with relatives or friends, and they often go home because they have no other options, like transitional housing and other services meant to help them remain safe in their own community.

Many of us in Alaska will be disheartened and frustrated if the VAWA state consultation amendment changed nothing in reality. While not all of the VAWA 2013 amendments apply to Alaska Native villages to date, the amendment that requires the state to consult with tribes created hope that VAWA

resources under the STOP state formula would finally reach our village. In light of the lack of appropriate and meaningful consultation by the state of Alaska, we ask that you investigate and address any violations of the state consultation mandate and provide real meaning to this amendment.

We recommend the following to OVW.

- Clarify the appropriate processes and requirements that the state of Alaska must follow to comply with VAWA requirements before receiving funding.
- Clarify the process the state must follow to consult and coordinate with tribes, including which representatives to contact and when and how to provide adequate notice.
- Require the state to certify appropriate participation from all 229 Alaska villages before disbursing funding.
- Require the state to provide information about how funds directly support local village-based responses that address the safety of Alaska Native women.

## Closing Summary

In closing, we urge that issues raised in our testimony, including future issues, be appropriately recognized and elevated as national issues. Chapter Two of the Indian Law and Order Commission 2013 Report appropriately points out that “Section 205 of the TLOA 2010 states: nothing in this Act limits, alters, expands, or diminishes the civil or criminal jurisdiction of the State of Alaska, any subdivision of the State of Alaska, or any Indian tribe in that State.” Yet, the Indian Law and Order Commission's opinion is that the problems in Alaska are so severe and the number of Alaska Native communities affected so large that continuing to exempt the state from national policy change is wrong. It sets Alaska apart from the progress that has become possible in the rest of Indian Country. The public safety issues in Alaska and the law and policy at the root of those problems beg to be addressed. These are no longer Alaska's issues. They are national issues. The Village of Anvik is also concerned with the staffing shortage at OVW; we cannot get responses from our new grants manager to critical questions that we are mandated to ask. As a sovereign nation, we expect responses so that we can ensure we are complying with the grant requirements.

Thank you for taking the time to listen to our concerns, the voices and cries of our people, and for considering our recommendations. The Village of Anvik looks forward to continuing our work locally and with our important allies on a national and international level to strengthen tribal sovereignty and increase the safety of Native women in our region and across the state of Alaska. In addition, we believe in the continuation of building alliances to enhance and promote the voice of Alaska Native survivors, advocates, and tribal leaders at the village, state, federal, and international levels. By working together, we stand stronger in our advocacy efforts for equal access to justice, local village-based solutions to local village problems, and access to services and advocacy designed by and for Native women.

## Apache Tribe of Oklahoma

***The Honorable Bobby Komardley, Chairman***

The proposed tribal set-aside resulted from tribal leaders' recommendations during previous tribal consultations and listening sessions. This discretionary tribal assistance set aside of up to 7 percent in the proposed FY 2018 president's budget and the FY 2019 funds that may be available are proposed for appropriation to OJP for: research, evaluation, and statistics; state and local law enforcement

assistance; and juvenile justice programs. Given this potential for increased funding and broader flexibility in scope, DOJ is consulting with tribal leaders, hosting listening sessions with tribal justice leaders, and seeking input via webinars and other methods primarily to inform planning for the potential FY 2018 and FY 2019 funds.

Oklahoma has a tribal population of 692,421 and is home to 37 federally recognized tribes, each a distinct sovereign nation. The Apache Tribe of Oklahoma is a federally recognized Indian tribe headquartered in Anadarko, OK. The tribe has approximately 1,860 enrolled members.

### **Geographic Challenges**

Until 1907, the land within the state of Oklahoma belonged entirely to Indian tribes. After statehood, Oklahoma began treating tribal reservations as dis-established, and tribal lands became checker-boarded due to the federal allotment policy that disbanded and allotted former Indian lands. However, a new 10th Circuit case has called Oklahoma's determination regarding Indian lands into question. The 10th Circuit Court of Appeals opined that at least one reservation still exists in Oklahoma and, in fact, more than one reservation may exist.

Indian lands exist in high concentration within the boundaries of Oklahoma. Tribes in Oklahoma refer to tribal service areas, which often coincide within traditional reservation boundaries. The Apache Tribe of Oklahoma's service area comprises the traditional boundaries of the Apache Tribe of Oklahoma tribal lands as they existed prior to statehood. The service area consists of Grady, Tillman, Caddo, Kiowa, Cotton, Washita, and Comanche Counties in rural, southwest Oklahoma. The Apache Tribe of Oklahoma service area has an overall population of 228,466. Seven federally recognized tribes are near the Anadarko service area. The number of tribal members in the service area is approximately 34,623.

A tribal council composed of every member of the tribe who is over the age of 18 governs the Apache Tribe of Oklahoma. The tribal business committee, which comprises five elected tribal members, manages the day-to-day governing operations of the tribe. The Tribal Chairman, Bobby Komardley, presides over the tribal council and business committee meetings.

Various contracts support the Apache Tribe of Oklahoma's infrastructure, including contracts with BIA, IHS, and HHS. The tribe has a tribal-state compact governing the sale of tobacco and motor fuels and tribal gaming.

Several Indian law Supreme Court decisions have restricted tribes' criminal and civil jurisdictional powers and left a system of jurisdictional red tape that requires analysis of the race of the victim and perpetrator and a determination of whether the act occurred in Indian Country. Due to U.S. Supreme Court rulings, tribes have no criminal jurisdiction over non-Indians and only limited civil jurisdiction over non-members on non-Indian fee lands. Determining what is or is not Indian Country in Oklahoma is very challenging and is tied directly to a tribe's power to protect tribal citizens.

Oklahoma is currently treating Indian land as consisting entirely of Indian land allotments. These allotments are interspersed with non-Indian lands, creating a "checkerboard" pattern of Indian land and non-Indian land across Oklahoma. Depending on the type of allotment, lands may morph from Indian land to non-Indian land upon the probating of an estate.

## Additional Challenges

The Apache Tribe of Oklahoma, along with five other federally recognized tribes in the area, uses a Court of Federal Regulations (CFR) located in Anadarko. BIA established the CFRs in the late 19th century during the strong assimilation era just after Indian children had been sent off to boarding schools. BIA provides all our law enforcement services. The BIA contracts with a local jail in Carnegie, OK, to house all adult Indian offenders prosecuted in the Anadarko Area CFR, including offenders who are enrolled in the Apache Tribe of Oklahoma. In addition, all juveniles are processed and sentenced in the state system. Currently, there are no formal pretrial, probation, parole, or reentry services; cross-jurisdictional agreements; sex offender registry; task forces; or information sharing systems or similar arrangements available in the tribal system. The Apache Tribe of Oklahoma has no budgeted sworn-force law enforcement officers. In addition, the Apache Tribe of Oklahoma has no courthouse, law enforcement facilities, transitional housing, detention facilities, or jails.

## Victim Services

The Apache Tribe of Oklahoma Violence-Free Living Program is a tribal victims' service agency. The Apache Tribe of Oklahoma believes that mental and physical abuse are not in line with traditional tribal values. The tribe is committed to providing culturally appropriate resources and safety and advocacy services in partnership with law enforcement, health professionals, and the community until all individuals who have been victimized have control over their own lives and the cycle of violence has been broken. The Violence-Free Living Program has operated since 1997 and provides emergency transportation to shelters, advocacy, court advocacy, civil legal assistance, and emergency assistance to victims in our tribal service area.

We wish to highlight some serious concerns regarding enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking and strengthening the federal response to such crimes over the past year.

## CFR Issues

- It has been impossible for us to have a tribal code tailored to the needs of our tribal communities approved by the Secretary of the Interior regarding domestic violence, issuance of protection orders, and the civil and criminal enforcement of those protection orders. We have submitted codes but never received approval despite placing numerous phone calls.
- The CFR does not input protection orders into the state or federal database, thereby making enforcement of any CFR protection order an illusion.
- The CFR judges need critical training on the drafting of protection orders that meet the needs of victims and meet VAWA's full faith and credit requirement.
- It is unclear whether CFRs are willing to implement SDVCJ. Given the difficulty receiving approval for tribal codes to be used in CFRs, it seems doubtful that SDVCJ is within reach.
- Additional funding is needed for tribal victim service programs, including legal assistance, which is crucial to a victim trying to escape domestic violence.
- Additional funding is needed to allow grantees, as a last resort, to provide filing fees and other costs, such as fees for service of process, depositions, domestic violence experts, witness fees, and other costs related to litigating domestic violence cases. Currently, the CFR does not allow waivers and insists on setting up payment plans for victims to cover the cost of filing a case.

## The State of Oklahoma

- Oklahoma has a long, long history of minimizing tribal sovereignty and aggressively reducing the status of Indian Country. In many cases, tribes are not allowed access to enter protection orders in the state's criminal database. This barrier directly detracts from the enforceability of tribal protection orders. To date, victim advocates continue to report that state enforcement of tribally issued protection orders is almost non-existent.
- Some Oklahoma state courts are overtly hostile to Native victims, even making derogatory remarks about certain tribes when the court recognizes a tribal victim in a case. Oklahoma state courts receiving federal grant dollars should be required to attend annual trainings developed by the Native Alliance Against Violence to ensure cultural awareness and knowledge about client safety issues in tribal communities.
- Oklahoma has victim rights statutes on the books, but there is no enforcement mechanism for those rights. Oklahoma state courts receiving federal grant dollars should be required to provide an enforcement mechanism for victims who experience a violation of victim rights during a criminal prosecution tied to a domestic violence case.

## Responses to OVW Tribal Consultation Questions

### 1. **What are the preferred methods that could be used to allocate tribal-specific funding provided by DOJ?**

**1a. Some tribal leaders have recommended that DOJ convert competitive grants to formula grants. DOJ is concerned that the amounts received by each tribe under a formula grant program will be too small to make an impact on public safety and criminal and juvenile justice needs. What are your thoughts on this issue?**

VAWA funding is a critical resource to the tribe as we fight to keep tribal citizens safe. However, competitive grant funding that requires the tribe to compete with other federally recognized tribes for money is counterintuitive to tribal customs and traditions. The current funding paradigm is structured so that one tribe must lose out on funding for another tribe to gain funding. Additionally, the current funding paradigm is structured so that having a grant writer on staff, which is beyond the reach of tribes with limited resources, increases the probability of funding. A funding paradigm that is based upon a tribe's resources is arbitrary and certainly not an indicator of tribal need or how well a tribe has met goals and objectives with previous funding. Tribal government leaders are often torn between the need for tribal victim services and the knowledge that, at the end of the funding cycle, the services may disappear. Is it better to never have had services or to have provided services for a short while, only to see the service vanish with funding decisions beyond the tribe's control?

We recommend structuring the funding so that tribes can continue to count on funding for services beyond the current 3-year funding cycle. The continued funding would be contingent upon the tribal program meeting goals and objectives and managing the funds responsibly. This approach would provide tribal programs some degree of security. A funding formula that provides a percentage of funding based upon tribal population is not preferred, since this approach allows larger tribes to access more funding than a smaller tribe, even if the smaller tribe operates a more successful victim service program. Our tribe has a fairly small population

with a large service area, so our tribe is not in favor of formula grants based on tribal population.

**1b. Most formula grant programs at DOJ use data, such as crime rates and population base, as the basis for the program's formula. However, not all tribes can report their crime data to the FBI. Should DOJ prioritize strategies to build tribes' capacity to access, track, and report crime data?**

The Apache Tribe of Oklahoma is not in favor of a grant formula that is based on crime rates and populations. We do not have access to NCIC, nor does the CFR add protection orders or crimes to the federal database. If DOJ bases funding on crime rates and population, our tribe will lose its funding and, therefore, lose our long-standing victim services program.

For tribes using CFRs, DOJ should require the courts to enter all protection orders and criminal convictions into the federal database. Tribes use CFRs for a variety of reasons tied to a lack of tribal resources. Requiring CFRs to load this crucial information would be a milestone for victim safety.

**1c. If the Department continues to use discretionary awards, should award amounts be increased, even if this reduces the total number of tribes receiving awards?**

This question goes to the heart of some tribal belief systems. DOJ must minimize a discretionary system that requires tribes to battle it out for funding. The funding paradigm should be shifted in a way that ensures continued funding for three grant cycles for tribes who perform well, meet goals and objectives, and manage funds with integrity. The number of tribes may have to temporarily be reduced, but after three non-competitive cycles, the tribes can again enter a discretionary cycle. This approach supports tribal grantees in developing and expanding funded programs and to work toward sustainability.

**1d. Are there ways that CTAS can be refined to better address tribal needs? Some tribes have expressed concern that the CTAS process unfairly burdens smaller tribes or those seeking to apply for targeted funds. Do tribal leaders have suggestions about ways to reduce this possible burden?**

CTAS has made great strides in becoming more user friendly by providing webinars and templates to use, and the GMS system seems to work properly more often than not. That said, restricting the tribe to one application has placed a hardship on our tribe—a smaller tribe. Each purpose area drafter must seek out and collaborate with other purpose area drafters, which may seem simple, but becomes an almost insurmountable barrier. For instance, our victim service program is not located on tribal lands. Its location was a strategic move by the tribe to promote confidentiality. Initially, it was located in our tribal complex, and each victim was exposed to many people accessing other services. This exposure led to gossip and unauthorized sharing of the identity of victims who sought services. Relocation helped resolve this issue, but that agency is no longer connected with other tribal programs in a way that promotes working together.

**2. Apart from the law enforcement, juvenile justice, victim services infrastructure, and criminal justice priorities currently being addressed by DOJ through tribal-specific grant programs, are there any additional tribal priorities that should be considered in the appropriations language for the discretionary tribal assistance set-aside proposed in the president's budget for FY 2018?**

Tribes using CFRs are in dire need of assistance with code development and tribal court infrastructure. Additionally, providing funding for the tribe to load CFR protection orders and criminal convictions into databases would be helpful if the CFR refuses to do so. Perhaps a tribal protection order unit could be developed to access the relevant databases, and tribes could transmit tribal protection orders and tribal convictions to this unit for upload.

As a tribe who uses CFRs, we are curious about whether a tribe can request a CFR to implement SDVCJ. This jurisdiction seems appropriate since CFRs are a federal creation and SDVCJ is a federal law. Should the CFR not be required to follow federal law if a tribe makes that request? Funding towards this end would be helpful.

Finally, DOJ simply must do something to bridge the gap between the notice of grant awards and the release of budgets. It is illogical to think a tribal program can keep excellent staff in the wake of coming to work at the end of a grant cycle only to learn the program has not been funded again. It is equally illogical to think a tribal program can keep excellent staff in the wake of coming to work at the end of a grant cycle only to learn the program has been funded but cannot access funds for up to a year after being awarded.

**2a. In the listening sessions held in 2017, tribal leaders and tribal justice officials have consistently identified law enforcement resources as a priority, and most applications from tribes concern law enforcement activities. Should DOJ continue to prioritize funding for law enforcement?**

Our tribe has no tribal law enforcement and relies on BIA for law enforcement services. Law enforcement should always be a priority in domestic violence cases. Possible funding areas include ongoing, vigorous training on domestic violence power and control dynamics; victim safety issues, including lethality assessments; and batterer accountability. OVW should approve and provide this training to ensure accuracy and best practices.

**2b. The Office of Juvenile Justice and Delinquency Prevention has prioritized investments that reflect tribal leader input, including community-based supervision and diversion, juvenile healing-to-wellness court services, tribal youth programs, and juvenile justice and strategic planning. What budget priorities should be continued, expanded, added, or eliminated?**

We make no comment on this issue. Our youth are waived from the CFR, and the state system handles their cases. We are unsure where the authority originates to make that waiver.

**2c. Should DOJ continue its support of efforts to enhance the collection of data in Indian Country and support research on tribal criminal justice systems and strategies? If so, what specific information, needs, or topics should be prioritized?**

Yes, DOJ should continue to support efforts to enhance the collection of data in Indian Country and support research. However, that data should not be used to provide states with an opportunity for additional funding by alleging that the state serves Indian Country. That has happened repeatedly in the past. We are particularly interested in the number of tribal

protection order violations occurring outside of Indian Country and the number of criminal enforcement actions the state brings based on those violations.

**2d. Do the existing TTA and other support available adequately address the need to build the capacity and expertise of tribal justice systems? What priorities for TTA and other support should be considered?**

Yes, TTA is available to build the capacity and expertise of tribal justice systems. However, those members of the system who have a direct impact on victim safety and experience offer little to no participation in the TTA. Judges and prosecutors (both state and tribal) must be mandated to attend TTA events that will enhance victim safety and expand their knowledge of the dynamics of domestic violence, sexual assault, and stalking.

**3. The DOJ grant-making components plan to implement a more consistent method for regular consultation, dialogue, and forums for obtaining feedback from tribal leaders and tribal justice officials. Do you have suggestions on how DOJ can improve communication with tribes?**

We strongly suggest more notice to tribal leaders. Notice of the tribal consultation should be provided at least 2 to 3 months prior to the consultation. The framing paper sometimes comes out less than a month before the consultation, and tribal leaders are very busy. This short amount of time does not lend itself to meaningful input by tribal leaders.

**4. H.R. 228 (P.L. 115-93), which was enacted into law on December 18, 2017, adds DOJ to the list of agencies that can participate in the Indian Employment, Training and Related Services Act of 1992. The subject matter of the Act does not pertain to activities generally within the purview of DOJ. Given the Act's focus on employment and related services, what role do you see for DOJ in the implementation of this legislation?**

We have no comment on this issue.

**5. If the proposed tribal set-aside of the Crime Victims Fund is passed by Congress, what victim-centered programs and services would you prioritize? What are the preferred methods for funding allocation?**

The preferred funding method would be the same method described in Question 1(c) above.

## **Cook Inlet Tribal Council**

### ***The Honorable Gloria O'Neill, President/CEO***

As President and CEO of Cook Inlet Tribal Council (CITC) and the Alaska Native Justice Center (ANJC), two Alaska Native tribal organizations that serve as the primary social services and justice/victims services for Native people in Anchorage, AK, I am privileged to offer the following comments. CITC and ANJC have been designated tribal authority through Cook Inlet Region, Inc., organized through the Alaska Native Claims Settlement Act and recognized under Section 4(b) of the Indian Self-Determination and Education Assistance Act (P.L. 93-638, 25 U.S.C. § 450(b)). CITC and ANJC build human capacity by partnering with individual Alaska Native people to establish and achieve educational and employment goals that result in lasting, positive change for our people, their families, and their communities, as well as remove obstacles to that success.

ANJC was founded originally because of the lack of attention to Native women victims in the Alaska justice system and the disproportionate imprisonment rates of Alaska Native men, and its mission is justice for Alaska Natives. We know the following sobering facts and unacceptable truths to be both current and historic, only for the reported offenses in Alaska, since they do not include unreported offenses.

- In 2007, Amnesty International reported that “the USA is currently failing to act with due diligence to prevent, investigate and punish sexual violence against Native American and Alaska Native women.”
- In 2016, NIJ reported that 56.1 percent of American Indian and Alaska Native women have experienced sexual violence, and 90 percent experienced sexual violence by a non-Native perpetrator.
- In Anchorage in 2016, Alaska Natives represented 44 percent of victims of reported felony sexual assault, but only 12.6 percent of the population.
- Alaska's extremely high levels of sexual assault, domestic violence, dating violence, and stalking disproportionately impact Alaska Native people, as supported by the following data.
  - In 2000, researchers at the University of Alaska Anchorage reported that the incidence of domestic violence among self-identified Alaska Native women was 8 to 12 times higher than among non-Alaska Native women.
  - Based on a review of cases closed by the Alaska State Troopers in 2008 through 2011, Alaska Native people were 7.2 times more likely to experience domestic violence and 7.7 times more likely to be sexually assaulted than White Alaskans.
  - When surveyed anonymously in 2011, more than three of every four Alaska Native women acknowledged being physically assaulted during her lifetime.
- Violence continues to disproportionately affect Alaska Native people in the second half of this decade, as shown by the following statistics.
  - In 2016, Alaska Native females had the highest prevalence of sex offense victimization across all age groups, representing 57 percent of all reported victims.
  - Alaska Native males represented 36 percent of male victims, more than 2.5 times more than Alaska's total male population.

In 2017, the Alaska Department of Public Safety reported that 54 percent of Alaska's sexual assault victims were Alaska Native. The Alaska Federation of Natives (AFN) resolutions clearly outline the factual basis of the need for additional research and comprehensive data collection, investigation, and prosecution of offenses against Native women. A recent case in Anchorage, in which a non-Native man kidnapped and assaulted a young Native woman, points to the systemic issues that need to be addressed.

CITC and ANJC support the testimony provided by NCAI. In particular, CITC emphasizes the need for specific research related to Alaska Native women, whose jurisdictional circumstances and need for increased services, combined with the lack of policing in remote Alaska, render them a unique population. Furthermore, ANJC urges DOJ to include American Indian and Alaska Native women who live off reservation and in urban areas in any research and funding to ensure the full scope of the problem is considered and addressed.

ANJC has a primary concern to provide services to victims and stands ready, willing, and able to partner with DOJ to further support these efforts and to create more equity in the outcomes of crimes committed against Native women. ANJC recommends that tribal funds allocated for victims of crime be as flexible as possible to address endemic issues that will save lives.

Thank you for your consideration of our issues. I look forward to working with you in the future as we support and change the landscape for Alaska Native and American Indian victims of crime.

## Confederated Tribes of the Goshute Reservation, Paiute Indian Tribe of Utah, San Juan Southern Paiute Tribe, and Navajo Nation

The following tribes offered similar written recommendations:

- ***Confederated Tribes of the Goshute Reservation, The Honorable Rupert Steele, Tribal Chairman;***
- ***Paiute Indian Tribe of Utah, The Honorable Tamra Borchardt-Slayton, Chairwoman;***
- ***San Juan Southern Paiute Tribe, The Honorable Carlene Yellowhair, President; and***
- ***Navajo Nation, The Honorable Russell Begaye, President.***

Shocking statistics reflect that one in two Native women is a victim of sexual assault and one in three is a victim of rape. This violence must end. Violence against Native women is unacceptable. Injustice to Native victims continues as non-Native offenders walk free from prosecution. Non-Native men prey on women and girls in Indian Country as a result of tribal governments' limited capacity to hold them accountable. Consequently, Native American tribes face increasing crime rates involving sexual abuse, domestic violence, and sex trafficking.

We offer the following recommendations.

- Support and reaffirm tribal criminal jurisdiction over non-Indian perpetrators of domestic violence, sexual assault, dating violence, stalking, and trafficking for all tribes.

VAWA 2013, P.L. 113-4, and TLOA 2010 are critical solutions to ending rape in tribal nations.

These laws are incredible achievements, but violence prevention does not stop there. The lack of tribal jurisdiction over non-Indian offenders on Indian lands continues to be a key reason for the perpetuation of disproportionate violence against American Indian women. The majority of tribes can be in a stronger position to meet the requirements of SDVCJ with support from the federal government.

- Increase federal penalties for violation of tribal protection and exclusion orders. Initiate consultation with tribal governments to ensure the public safety of their citizens and community members.

In addition to domestic violence protection orders, tribes issue exclusion orders for drug-related crimes and protection orders against non-Indians for stalking and sexual assault offenses.

However, in most cases, tribes have a limited ability to enforce these orders.

- Hold U.S. attorneys accountable for necessary coordination with tribal justice officials and reporting duties under TLOA.

Section 201 of TLOA requires U.S. attorneys to coordinate with tribal justice officials on the use of evidence when declining to prosecute or refer an on-reservation crime. Sharing this type of information is critical to keeping Indian women safe. Tribal officials need to be notified when a U.S. attorney declines to prosecute sexual assault and domestic violence cases so a tribal prosecution may proceed in the case of an Indian defendant or, in other cases, tribes can at least notify the victim of the status of the case, so she may take steps to protect herself.

We appreciate your serious consideration of these recommendations affecting Indian Country.

## Confederated Tribes of Siletz Indians

*The Honorable Delores Pigsley, Tribal Council Chairman*

### **How can OVW improve its administration of its Tribal Jurisdiction Program to encourage more tribes to apply for funding?**

To strengthen the tribal response to the solicitation for the OVW Tribal Jurisdiction Program, OVW should consider incorporating a greater allowance for tribes to use the funds as a sub-grant, allocate funds for a social worker to manage cases, and expand the grant cycle to allow time for development and strategic planning.

A sub-grant aspect of this solicitation would allow tribes who have local, county, or state officers enforcing the law through contracts (particularly for checkerboard-style reservations) to strengthen their response to domestic violence. Tribes could request the sub-grant be used to create a unit or temporary position to address the need for monitoring domestic violence cases in various forms. Sub-grants create more options that can better address the diversity of tribal governance and thus enhance the tribe's eligibility for this specific grant.

Designing the best strategy for spending grant funds requires both the people in charge of strategic planning and those involved in the deployment. Extending the period for which the solicitation is open and the grant implementation period allows for strategic planning as well as execution. Program coordinators, tribal leadership, and grant writers are often the ones who see OVW grants, but delivery of the grant services requires the tribal court, law enforcement, and social services. Bringing large departments to the table to help develop a comprehensive, sustainable plan is not always feasible in a 3-month time span, since they are busy providing direct services.

### **How should OVW expend the unobligated \$1.6 million in FY 2018 funding for the Tribal Jurisdiction Program?**

OVW should allocate the unexpended \$1.6 million to tribal set-aside grants that address wide, long-term issues affecting survivors and their communities. The work tribal grantees do is much more complex than solving acute individual crisis situations. Historical and acute trauma can compound to create long-term complications for the survivors and their communities. Tribal practices for healing both the victim and offender to sustain change in tribal communities are a greatly underfunded and often overlooked area of traditional tribal justice practices. A large gap in OVW funding is funds for prevention of domestic and sexual violence, community healing practices, and community education across age

groups. The belief that an act of domestic violence hurts the individual, the community, and the perpetrator is a view that encompasses Native values, yet the need for acute service provision is so great that we cannot allocate much time and money to addressing how violence impacts the community or provide perpetrators the support they need to avoid recidivism. Educating people is important to preventing domestic violence, but most curriculums focus on educating youth and survivors, rather than educating across the lifespan. Changing relationship norms in a community, particularly a tribal community creates a need for new traditions and the interruption of passing unhealthy behaviors on to youth. To affect community change, we need to disrupt harmful messaging across the lifespan.

## Eastern Shawnee Tribe of Oklahoma

**Cathleen Osborne-Gowey, Founder, Eastern Shawnee Tribe of Oklahoma Haven House**

As part of our testimony I'd like to submit a letter written by one of our clients who no longer sees herself as a victim, but as a survivor.

*"I'm not a victim, I'm a survivor.*

*Women who have been abused are often viewed as weak. I feel women who have been abused, whether it was verbal, mental, sexual, physical, or all of the above, are the strongest of women. Why? To be able to keep a straight face and not show emotion during those times of torture, to go to work every day and act like everything's okay when what you really want to do is scream "help me," to not completely lose your mind, that's strength. And if those women are able to get out of that hell without killing themselves, even stronger. I know that last sentence might have been a little jarring, but I want you to understand how extreme abuse can be. It's okay if those reading this don't agree and I'm sorry if anyone feels like their hard times and strengths aren't valid. That is in no way my intention. The thing is: we don't expect you to understand; we were you once.*

*I have always been proud of my strength. I've always been praised for it, as well, but I became one of those girls trying to hide a black eye and acting like I wasn't in pain physically and emotionally. I looked in the mirror many times asking myself, "How did I get here?" In the past, I have heard other women's stories and asked myself, "How weak can they be? Why don't they just leave?" I now feel horrible for not reaching my hand out to help in their time of need because of my lack of understanding.*

*As you can gather by now, I was in an abusive relationship. I didn't even know it for a while. He wasn't hitting me at the time, and he didn't mean the words he said, right? I'd seen him cry while apologizing. The effects of domestic violence are traumatic. At the time, I was convinced there was no way I was a victim. There are many red flags before physical abuse even starts: Abusive control—control of friends, time, your body and mind. Physical, but not so physical abuse—this could be grabbing your arm, pushing you, or being pinned up against a wall with his hands around your neck. Fear—fear of him snapping over something little. You are, at this point, walking on eggshells. Then, there's isolation. This is usually an abuser's last hope or step to gain complete control. This is usually the point where a woman tries to get out or she is not so lucky and is killed, whether it was intentional or not. Isolation is from anyone who he feels you will tell. He's in fear of getting caught and needs to get you away from any support you have. This isolation can even move you to another state because of the sense of brainwash and fear you are under at this point.*

*I was one of the lucky ones who got away. I shiver every time I think about it. I look at it now and see it all clearly. Why didn't I see it clearly then? Why didn't I leave at the first signs? Maybe I was blinded by his words and actions after each time of abuse; they were kind, he was sensitive, and he said he was sorry. Maybe I didn't want to see. When someone has a dominant force over you, it is like being brainwashed. You cling to any hope left that tomorrow will be better. If he loves me, he will stop. If I can just be a better person and wife to him, he will stop. Abuse doesn't happen overnight. No. The abusers know what they are doing and generally have everything planned out, even if their plan takes years to accomplish, which, in my case, it did. He would have complete control of how I would feel throughout any given day by the degrading and belittling words he would say. By the end of the day when he saw me shutting down, he would apologize and be the man I fell in love with. This was always short-term and kept going downhill after each incident. I eventually realized I was giving him more strength and control by forgiving him.*

*I am now on a journey to find myself again and be comfortable in my own skin. I feel empowered now and have come a long way in a short time. I'm not going to lie, I still have my weak moments of self-doubt and I question my worth, but those times are getting few and far between. I know what has helped me tremendously is the wonderful support system I have. I always knew my friends were amazing, but I now see them in even a better light. And my family, the ones I pushed away as I got older and started my own life, they are part of my daily life now, and we have grown closer than ever before. The Eastern Shawnee Tribe Domestic Violence Program has been so encouraging and helpful. You see, I had to show vulnerability, something that, to me, meant weakness, but I have now learned otherwise. Recently, a wise woman told me that being able to show vulnerability and being able to ask for help is strength.*

*On January 8, 2018, my life changed for the better even though I was still stuck in hell. I finally broke and opened up to some friends who gave me support and guided me. With that support, I was able to tell my family. On January 10, 2018, my family drove over 700 miles to come to my defense. As I watched my husband walking past me, handcuffed, I took a deep breath trying not to break down. As tears filled my eyes, I looked around at my family and I realized I'M FREE!*

*I'm not a victim, I'm a survivor."*

The Eastern Shawnee Tribe of Oklahoma (ESTO) lives largely in rural, isolated, low income areas, which are disconnected from each other on allotted lands. Access to sexual assault and domestic violence advocacy outside of our program can be up to 90 miles away. The geographical barriers and financial hurdles women in our community face to accessing domestic violence and sexual assault advocacy and services that existed before our Eastern Shawnee Family Violence Prevention Program opened still exist.

Oklahoma ranks third in the nation for the number of women killed by men in domestic violence situations. With a small amount of funding, starting in 2010, the ESTO Haven House printed a few flyers and served approximately 4 to 5 domestic violence victims a year. In 2012, the ESTO Haven House received our first CTAS Violence Against Women grant. This funding helped our program open the first ESTO Family Violence Prevention Program and work to reduce the geographic barriers and financial hurdles women in our community face to accessing domestic violence and sexual assault facilities and services in our area, provide for long-term transitional housing needs, and build community trust through consistent advocacy, awareness, and education. Beginning in 2015, we were awarded the VOCA grant, which has allowed our program to assist with emergency legal and counselling services and create

two emergency temporary safe shelters. We now serve more than 200 women a year and more than 200 to 300 children they bring in with them.

The Ottawa County Sheriff's Office is located some 18 miles from ESTO property and does not patrol ESTO property because of tribal sovereignty. While the ESTO Police Department and the Newton County Sheriff's Office cooperate, Newton County police have no authority in Oklahoma. As a result, ESTO tribal members and other residents are without adequate monitoring of and protection from domestic violence and sexual assault. When Eastern Shawnee women have the courage to call our program or the tribal police, large geographic distances between our tribal members and the police department often lengthen the response time of a police officer or advocate.

Like many states, domestic violence and sexual assault are largely under-reported in Oklahoma. Violence against Indian women occurs as a gauntlet in their lives: at one end—verbal abuse, and at the other—murder. Most Indian women do not report such crimes because of the belief that nothing will be done. Our tribe is working tirelessly to change this way of thinking. With our current funding this year, we are preparing to open a second safe house, offer more extensive client services to all victims of crime, provide substance abuse treatment, and increase our advocacy staff. Our program is expanding to try to meet the critical needs of tribal women in our community.

We have two other shelter options in our area. The first option is out of state, which excludes our clients from services, and the second is culturally insensitive, poorly staffed, and fraught with substance abuse issues. Because ESTO women generally live in rural areas, our services are the only advocacy and transitional housing services many of them have. For sexual assault cases, our tribal area has one sexual assault nurse examiner (SANE) who is only available a few days a week. If a rape happens outside of her working hours, we have to keep the victim in their soiled clothes and drive them up to 90 miles away to the closest facility with a SANE nurse on duty. In Oklahoma, the rate of rape and attempted rape among females reported to law enforcement has been 35 to 45 percent higher than the U.S. rate for the past decade, and we know that 60 percent of rapes are never reported.

Funding is key to:

1. Provide adequate and culturally appropriate shelter options for tribal and local women in our area;
2. Train our advocates to administer rape kits for sexual assault victims in our tribe so this service is available whenever needed;
3. Provide domestic violence, sexual assault, and human trafficking education for local law enforcement, lawyers, and judges;
4. Provide legal support beyond emergency legal assistance; and
5. Support continual domestic violence and sexual assault advocacy, long-term transitional housing services, and community education and awareness.

Without continued funding to provide services, education, and outreach, there will be more victims and fewer survivors. Women, like the client whose letter is attached above, deserve the chance to say to themselves, "I AM FREE."

# Mesa Grande Band of Mission Indians

## *The Honorable Keely C. Linton, Tribal Delegate*

Mesa Grande Band of Mission Indians is a small tribe located in the backcountry of San Diego County in California. Like many tribes in southern California, Mesa Grande comprises rural, small-town communities. There are no public transportation systems and the closest town with a grocery store or convenience stores is 30 minutes to an hour away, depending on your location on the reservation. The reservation is in the mountains with only dirt roads for access. Mesa Grande is a non-gaming tribe. Our economic development is slow and hindered by a land issue with a neighboring tribe that is still awaiting judgment by BIA. Mesa Grande is part of several collaborations with other tribes, which provide greater access to services. These partnerships include Indian Health Council, Inc.; the Intertribal Court of Southern California; and Southern California Tribal Chairmen's Association.

## Issues and Concerns

Concerns regarding VAWA and other issues include the following.

- **Lack of studies and research in Indian Country:** Requirements for data and research documentation are limited to provide reporting for grants and other funding. Within California (a P.L. 83-280 state) tribes have little to no relationship with the state crime analysis program to support adequate information and statistics that reflect tribal communities.
- **Intersection of substance abuse, mental health, suicide, sexual assault, and domestic violence:** Programs for domestic violence and substance abuse are still working in silos. We need some models of best practices and technical support to assist with the development of collaborative efforts to work with victims affected by substance abuse. Funding also needs to be expanded to reflect these needs and support services for collaboration.
- **Jurisdiction within California:** Development of tribal courts and law enforcement is still underfunded. Often, small tribes do not have the capacity for grant writers, infrastructure, and program development to obtain funding to improve their justice systems.
- **Regarding the perpetrator:** Perpetrators often return to our tribal lands. We need re-entry programs to bring healing not only for the victims, but also for the perpetrator, who otherwise continues to harm numerous victims. There needs to be accountability, re-education, and mandated treatment for these perpetrators beyond a 52-week program and anger management.
- **Full faith and credit:** Full faith and credit has been an ongoing topic at tribal consultations since 2006. Full faith and credit needs to be addressed at the local level and implemented. The lack of training for police officers creates a public safety gap for those who have sought protection through tribal courts. Tribes have worked around this lack of training by creating tribal court orders that resemble state protection orders or by developing a separate registry. Training should not only include front-line deputies, but the legal counsel within the agencies who advise the officers.
- **The Murdered and Missing:** We support the request for a day of awareness for the murdered and missing. We also request this acknowledgement go beyond a day of awareness and that it be added to the list of crimes under VAWA. We also want to acknowledge the mislabeled. Often, when crimes involving Native victims are investigated, they are mislabeled as runaways,

suicides, or as non-Native victims. We want to stress the importance of investigative standards, especially when investigating crimes perpetrated on Native victims.

- **CTAS priority areas:** Tribes need to be consulted about the priority areas within the CTAS application. A suggestion is to request a special tribal consultation to address issues before the awards and solicitations go out for the next funding cycle so tribes have the opportunity to weigh in on what should go into the solicitations.
- **Legal assistance for victims:** There is an overwhelming need for victim legal assistance. The tribal solicitation for the legal assistance for victims application needs to be reimplemented and sustained. Tribal victimization issues often cross jurisdictions and can be complicated, especially in P.L. 83-280 states where a victim may file in tribal court and the perpetrator files in state court. Often, non-tribal members are forced into tribal court and not given proper legal representation.

Service providers in large counties with large rural populations have requested e-filing for restraining orders. E-filing is practiced in some jurisdictions and not others. This option is a benefit for many victims seeking restraining orders because it saves time and transportation costs for the victims, who often travel 2 or more hours to the court and then must wait 6 or more hours in the courthouse to obtain a temporary order. E-filing should be encouraged in both state and tribal courts.

## Recommendations

- Expand funding and allowable grant activities to address substance abuse and mental health issues for victims. Include perpetrator re-entry programs.
- Increase victim legal assistance and transitional housing funds for tribes.
- Provide funding for the continuation and expansion of TAP.
- Include tribal consultation as a CTAS solicitation requirement and allow for more flexibility of services provided under CTAS.
- Assist with funding and jurisdiction issues in P.L. 83-280 states.
- Continue to provide a VOCA set-aside for tribal governments.
- Support the reauthorization of VAWA 2018.

## National Congress of American Indians

### *Task Force on Violence Against Women*

The following issues, concerns, and recommendations have been identified by Indian tribes and advocates for the safety of Native women during past annual tribal consultations (2006–2018), through NCAI resolutions (2000–2018), and at numerous national meetings. A review of oral and written statements tribal leaders made during consultations over the years clearly demonstrates these issues are not new but depict complicated legal and policy barriers embedded in the layers of federal Indian law. The NCAI Task Force on Violence Against Women (NCAI Task Force) monitors these issues on an ongoing basis and compiles them.

To increase the safety of Indian women and accountability of perpetrators, the NCAI Task Force recommends that federal departments address the following issues and coordinate with Indian tribes regarding implementation of the proposed recommendations.

## Implementation of VAWA

### *Tribal Jurisdiction Over Non-Indian Offenders*

Limited tribal jurisdiction over non-Indian offenders on Indian lands continues to be a key reason for the perpetuation of disproportionate levels and severity of violence against American Indian and Alaska Native women. VAWA 2013 addressed this issue for certain crimes of domestic violence, dating violence, and protection order violations for some tribes. Many other crimes of violence against Native women and children continue to fall through the cracks and many tribes, particularly those in Alaska and in states with restrictive settlement acts, such as Maine, cannot make use of this provision because of jurisdictional ambiguities. For those tribes implementing the jurisdiction provision of VAWA 2013, funding and resources are a significant problem. For instance, tribes have raised concerns about how they will recover health care costs for non-Indian inmates who are sentenced in tribal courts.

#### **Recommendations:**

- Support and reaffirm tribal criminal jurisdiction over non-Indian perpetrators of domestic violence, sexual assault, dating violence, child abuse, stalking, and trafficking for all federally recognized Indian tribes. For Indian tribes unable to exercise VAWA 2013 SDVCJ because of restrictive settlement acts, DOJ should support legislation to ensure they have equal access to the important protections offered by SDVCJ implementation.
- Establish a federal workgroup to identify options for covering health care costs for non-Indian inmates.
- It is recommended that all federal departments support increased funding for tribal implementation of the 2013 SDVCJ.

### *Research of Violence Against Alaska Native Women*

In 2013, VAWA was amended to include the 229 Alaska Native villages under the National Baseline Study. The baseline study is intended to provide recommendations to enhance the effectiveness of federal, state, tribal, and local responses to violence against Indian women. It is a concern that research specific to violence against Alaska Native women committed in Alaska Native villages is still non-existent.

#### **Recommendation:**

- NIJ should develop a program of research studies specific to Alaska Native women.

### *Enforcement of Federal Statutes Across Indian Tribes*

Enforcement of the federal firearms provision and habitual offender statute is of concern, particularly where tribes share concurrent jurisdiction with state governments under restrictive settlement acts and P.L. 83-280, such as Maine, Alaska, and California.

#### **Recommendation:**

- DOJ and DOI should increase TTA to develop interjurisdictional partnerships, policies, and protocols for districts where violations of these federal statutes are not being charged. Coordinate with Indian tribes to increase use of the statutes.

### *Outstanding Injustice of Missing and Murdered Native Women*

This past year, more than 200 tribal, state, regional, and national organizations joined the NIWRC in support of the Senate resolution recognizing a second National Day of Awareness for Missing and Murdered Native Women and Girls. The first national day of awareness in 2017 reached millions of people across the United States and the world through social media platforms. The social media networking and mobilization this year surpassed the 2017 efforts. The response to the public call for increased awareness indicates the extent of the reality that Native women go missing on a daily basis, often without any response by law enforcement.

#### **Recommendations:**

DOJ is urged to fully implement the VAWA 2005 program of research and specifically provide Indian tribes information regarding the disappearance and murder of Native women, and all federal departments are urged to do the following.

- Review, revise, and create law enforcement and justice protocols appropriate to the disappearance of Native women and girls, including interjurisdictional issues.
- Provide increased victim services to the families and community members of the disappeared or murdered Native women. These services should include Native and non-Native services, such as counseling for the children of the disappeared, burial assistance, community walks, and healing and other tribal ceremonies.
- Coordinate efforts across federal departments to increase the response to the disappearance or murder of Native women and girls.
- Coordinate efforts in consultation with Indian tribes to increase the response of state governments, where appropriate, to cases of the disappearance or murder of Native women or girls.

### **2018 Consultation Priority Issues**

#### *Disbursement of Crime Victim Funding and Support for a Permanent Fix*

Tribal governments, like other governments, are responsible for meeting the needs of victims in their communities. The 3 percent tribal set-aside from the Crime Victims Fund for FY 2018 is celebrated across Indian tribes. This funding has the potential to change the landscape of crime victim services in tribal communities, and tribal leaders are eager to engage in a discussion with DOJ and the Office for Victims of Crime (OVC) on how to make the best use of these lifesaving funds. While the timing of FY 2018 appropriations has created many challenges for administering this new funding, demonstrating success with this inaugural round of funding is essential. The NCAI Task Force offered preliminary recommendations regarding the mechanism for distributing the funds and permissible uses of the funds by tribal recipients.

#### **Mechanism for Distributing Tribal Funds in Subsequent Years**

Tribal governments have consistently asked that DOJ's grant-making processes respect inherent tribal self-determination and the government-to-government legal relationship. NCAI recommended that OVC adopt a method of distributing the funds among all eligible tribes that takes into account the need for sufficient base funding.

**Recommendation:**

- We request OVC begin immediate consultation with tribes on future distribution of VOCA tribal set-aside funding.

**Use of Funds by Tribal Recipients**

Different tribes will have different needs, and flexible funding use is important. NCAI recommended that DOJ take a broad view of what constitutes activities that will “improve services to victims of crime” as set forth in the appropriations bill.

**Recommendation:**

- We encourage OVC to be transparent with tribes about the number of applications received; the number of applications funded; the types of activities for which funds are requested, including activities OVC determines fall outside the program’s scope; and OVC’s methodology for determining funding levels for individual tribal applicants.

*Need to Improve Public Safety Funding Mechanisms*

Currently, base funding for tribal courts, law enforcement, and detention provided through BIA is entirely inadequate. Often, tribes in P.L. 83-280 states are completely shut out of this funding in their compacts. Last year, BIA released an unmet obligations report indicating the existence of more than \$2 billion in unmet need for tribal law enforcement and courts funding.

Funding provided through DOJ and HHS under a series of competitive grant programs pose serious access issues for many tribes. Moreover, funding for prevention, rehabilitation, and treatment programs, which are key components of any community’s approach to crime reduction, are located at IHS, the Substance Abuse and Mental Health Services Administration, and elsewhere within HHS. To obtain this funding, tribes must often compete against each other under the priorities and guidelines the administering agency sets. Too often, only the tribes with the financial and human resources to employ experienced grant writers end up receiving funding, while the under-resourced tribes are left without. Tribes that do receive funding cannot rely on it continuing beyond the current grant period. As a result, there are countless stories of successful tribal programs disappearing at the end of a 2- or 3-year grant cycle.

**Recommendation:**

- Consult with tribes to develop a proposal for reforming the tribal public safety funding system to better meet local needs.

*Federal Penalties for Violation of Tribal Protection and Exclusion Orders*

Indian tribes issue protection and exclusion orders to ensure the public safety of their citizens and community members. In addition to domestic violence protection orders, tribes issue exclusion orders for drug-related crimes and protection orders against non-Indians for stalking and sexual assault offenses. However, tribes have a limited ability to enforce these orders against non-Indians in most cases.

**Recommendation:**

- Initiate consultation with tribal governments on options to increase federal penalties and other deterrence measures for non-Indians who violate tribal exclusion orders and protection orders.

*Full Faith and Credit of Tribal Protection Orders*

During tribal consultation, several tribes expressed concerns over states refusing to give full faith and credit to tribal court protective orders, pursuant to 18 U.S.C. § 2265.

**Recommendation:**

- Work with tribes and states to ensure that state courts give all tribal court protective orders full faith and credit, pursuant to federal law. Where tribes report challenges with full faith and credit, DOJ should stop applicable state grant funding to ensure their compliance.

*Federal Accountability of Extractive Industries for Crimes Against Native Women*

The escalation of sexual and domestic violence, including sex trafficking, due to extractive industries must be addressed by DOJ, DOI, and HHS. The extractive industry consists of any operations that remove metals, mineral and aggregates from the earth. Industries must be held accountable for the resulting violence by itinerant workforces these industries create within tribal communities.

**Recommendations:**

- DOJ and DOI should create standards of protection for tribal communities that extractive industries must comply with prior to, during, and post construction to protect Native women and children, including during the federal permitting processes.
- DOJ should assist Indian tribes in safeguarding the lives of Native women where extractive industries employ a police force to ensure no militarized tactics and usage of excessive force and/or violations of civil rights are committed against members of tribal communities.
- HHS should enhance support training for shelter and related advocacy services by developing materials addressing the needs of domestic violence victims who are victimized by itinerant workers who local tribal authorities are unable to hold criminally accountable.

**Response to the 2018 VAWA Consultation Framing Paper****Question 1: How can OVW improve its administration of its Grants to Tribal Governments to Exercise Special Domestic Violence Criminal Jurisdiction Program to encourage more tribes to apply for funding?***Discontinue the Pilot Project Questionnaire*

The OVW Tribal Jurisdiction Program established in VAWA 2013 was created to strengthen tribal justice systems and assist them with implementing SDVCJ. As a part of this program, OVW currently requires tribal grant recipients to submit a questionnaire providing detailed information about their justice systems and certify that their laws, policies, and practices are compliant with the Indian Civil Rights Act. This is not something that OVW requires in any of its other state or tribal grant programs that provide funding to prosecutors or courts, all of whom are similarly bound to uphold the due process rights of defendants. The federal law is clear that tribes can exercise their jurisdiction so long as the tribe complies with federal law. The federal judiciary is the appropriate body to ensure this compliance, not

DOJ. In fact, the statute makes clear that the Attorney General's power to approve or disapprove of the tribe's exercise of jurisdiction over non-Indians was limited to the pilot project period that ended in March 2015. This offensive additional barrier to grant funding deters Indian tribes from applying for the Tribal Justice Program.

**Recommendation:**

- Discontinue the use of the pilot project questionnaire in the Tribal Jurisdiction Program now that the statutory pilot project has ended. Removing this obstruction will encourage more Indian tribes to apply to the program and use the funds as they were intended.

*Simplify the Application Process and Grant Requirements*

DOJ grant solicitations are notoriously burdensome to complete. OVW should explore ways to simplify and streamline the application model. The two-phase application process OVC currently uses to administer the tribal VOCA set-aside funding is a promising model that OVW should explore. Many tribes who are interested in exercising jurisdiction are concerned about the increased costs to their justice systems. These costs, however, are spread across various tribal departments (courts, prosecutors office, law enforcement, public defender, corrections), which may make it cumbersome for tribes to use a single federal grant to offset the costs of exercising SDVCJ across departments.

**Recommendation:**

- Explore with tribes and BIA whether there is a more effective mechanism for transferring funds to tribes who are exercising SDVCJ that would allow the tribes to use SDVCJ funds more similarly to how BIA funds for law enforcement and courts are currently used.

**Question 2: How should OVW expend the unobligated \$1.6 million in FY 2018 funding for the Tribal Jurisdiction Program?**

*Re-Issue Unobligated Funds to FY 2019 Tribal Jurisdiction Program*

Congress appropriated this funding to support tribes who want to strengthen their justice systems and implement SDVCJ. We know from tribes that there is a significant need for this funding.

**Recommendation:**

- We recommend that OVW make the \$1.6 million available to Indian tribes in the FY 2019 Tribal Jurisdiction Program.

**Priority Issues Specific to Federal Departments**

*OVW*

**Rescission from Tribal Programs**

OVW continues to apply congressionally mandated rescissions to tribal programs. For example, \$3.2 million was taken from the 2016 Grants to Tribal Governments program. It is our understanding that OVW has discretion to determine how to apply the rescission across its funding lines. Because of the unique federal trust responsibility and heightened federal obligations to tribes and the disparities they face in crime and victimization, OVW should not apply future rescissions to tribal grant programs.

### Transitional Housing Policies

During the tribal consultation, many tribes called on OVW to change current policies regarding transitional housing funding for victims of domestic violence. For a victim to be eligible for transitional housing funds, she must leave her home and seek out new housing, even if her home is near her family and tribe. This practice is especially problematic in rural areas, as women must leave their communities to find housing options that qualify them for transitional housing funds. Indian tribes stated that even if the woman has an order from a court stating that her partner must not return to the home, she is still required to leave her home to qualify for funding. While her partner is gone, the victim will still need to finance bills, such as rent, electric, water, etc., but cannot receive funding to meet these needs.

#### **Recommendation:**

- Amend these policies to allow for victims of domestic violence to receive funding to cover the same expenses covered by transitional housing funds when the partner is ordered to not return to the home by a tribal, state, or federal court.

### *FVPSA*

Support reauthorization and continued appropriations of FVPSA with amendments to increase tribal access to critical funds for domestic violence shelters and supportive services.

### *BIA*

The June 29, 2018, withdrawal of the regulations and Solicitor's Opinion authorizing and laying out a process for taking lands into trust in Alaska was a step back from possessing an important tool to protect women and children and clearing up a longstanding jurisdictional problem.

#### **Recommendations:**

- Support legislative amendments to permanently address the jurisdictional challenges and end the uncertainty of exercising tribal VAWA jurisdiction in Alaska.

Examples of such amendments under the reauthorization of VAWA 2018 include:

1. Amendments to the Alaska Native Claims Settlement Act to recognize a tribe's jurisdiction as equivalent to the corresponding village corporation's land base and traditional territory.
2. A pilot project for Alaska so more than just one of the 229 federally recognized tribes in Alaska can exercise SDVCJ. The pilot phase could be similar to the SDVCJ in VAWA 2013 and could require an application; entail participation in a similar intertribal working group to the SDVCJ; and involve a planning phase for the development of written tribal laws and ordinances, enforcement mechanisms, and tribal court structuring. Upon the conclusion of the planning phase, the tribe would seek plan certification from DOJ, similar to the SDVCJ pilot phase.
3. Removing the requirement of "Indian Country" to enforce a tribally issued protection order would assist Alaska tribes and provide stronger footing for enforcing protection order violations.

In addition, the federal government must address funding disparities for tribes in P.L. 83-280 states and similarly situated jurisdictions. Indian nations in P.L. 83-280 jurisdictions receive substantially lower amounts of support or none at all in the BIA compacting process for tribal law enforcement and tribal

courts, compared with Indian nations with concurrent federal jurisdiction. Consequently, the tribes in P.L. 83-280 jurisdictions have had far less opportunity to develop their own police departments and court systems. Beginning in the 1990s, DOJ has financially supported and provided technical assistance to Indian nations for development and enhancement of their police departments and court systems.

Similarly, Indian tribes in Maine presented their concerns during the 2016 and 2017 consultations regarding the impact of restrictive settlements acts on tribal authority to protect victims of domestic and sexual violence.

**Recommendations:**

- BIA should request federal funding and authority to add this funding to tribal compacts to end the disparity in funding between tribes regardless of whether concurrent jurisdiction lies with the federal or respective state government.

## Consultation Issues Specific to TLOA

### *Federal Accountability*

Section 201 of TLOA requires U.S. attorneys to coordinate with tribal justice officials on the use of evidence when declining to prosecute or refer an on-reservation crime. This type of coordination is critical to keeping Indian women safe. Tribal officials need timely notification when a U.S. attorney declines to prosecute sexual assault and domestic violence cases so, where appropriate, a tribal prosecution may proceed within the statute of limitations timeframe. This immediate notification also allows tribes to notify the victim of the status of the case so the victim may take the necessary steps for protection.

**Recommendation:**

- Hold U.S. attorneys accountable for necessary case coordination and communication with tribal justice officials under TLOA. The safety of Indian women depends upon it.

### *Enhanced Tribal Sentencing Authority*

Under Section 304 of TLOA, tribal courts can sentence offenders for up to 3 years' imprisonment for any one offense under tribal criminal law if certain due process protections are provided. This is a significant improvement, although this maximum sentence still falls short of the average sentence of 4 years for rape in other jurisdictions. Crucial for our purposes, tribes must have the capacity to house the offender in detention facilities that meet federal standards; otherwise, the enhanced sentencing authority is meaningless.

**Recommendation:**

- Work with Congress to ensure that the U.S. Bureau of Prisons pilot project is reauthorized and expanded, as tribes have recommended previously.

### *Prisoner Release and Reentry*

Section 601 of TLOA requires the U.S. Bureau of Prisons to notify tribal justice officials when a sex offender is released from federal custody into Indian Country.

**Recommendation:**

- Ensure that tribal justice officials are notified of prisoner release and re-entry on Indian lands and to tribal villages in Alaska, regardless of the process by which these events occur (i.e., whether the U.S. Bureau of Prisons director gives notice directly to tribal justice officials or whether he gives notice to the U.S. attorney who is then responsible for relaying that message to tribal justice officials). Proper implementation of this provision is critical to the safety of Indian women.

*Full Access to Federal Databases*

TLOA and VAWA 2005 require the Attorney General to permit Indian law enforcement agencies to enter information into and obtain information from the NCIC. The NCAI Task Force is concerned that not all Indian tribes have access to the NCIC under TAP. We understand that TAP is currently limited to tribes with a SORNA-compliant sex offender registry or a full-time tribal law enforcement agency. However, there are many tribes, particularly in Alaska, P.L. 83-280 jurisdictions, and similar jurisdictions, who do not meet these criteria. They may never meet the criteria, but they do have tribal courts that issue protection orders. For these protection orders to effectively protect victims, the tribe needs access to enter them into the NCIC protection order file. In addition, while TAP enhances tribal sovereignty by providing direct database access, barriers remain in the federal law that limit this access, which limits TAP's effectiveness. The applicable federal laws need to be reformed and tribes need to be added to P.L. 92-544, which the Criminal Justice Information System (CJIS) identifies as the barrier to full tribal access. Finally, tribes need to have a system available for entering their misdemeanor domestic violence convictions and other National Instant Criminal Background Check System (NICS) disqualifying events.

**Recommendations:**

- Create a dedicated funding stream for expanding TAP and make database access more widespread for tribes able to meet CJIS security requirements.
- The repurposing of the tribal registry funding under VAWA 2005 to support TAP should be open to all Indian tribes. We need to ensure that all tribes can access federal databases not only for the purpose of obtaining criminal history information for criminal or civil law purposes, but also for entering protection orders, missing person reports, and other relevant information into the database, such as NICS disqualifying events.
- Create tribal technical assistance programs and host regional trainings for tribal judges, tribal attorneys, child welfare agencies, and law enforcement personnel to educate them about the gaps in the current system and how to facilitate better coordination to ensure that lifesaving protection orders are entered into the NCIC database.
- Create a multidisciplinary task force with significant tribal participation to identify the outstanding barriers tribes face in acquiring full access to federal criminal history databases and develop a plan to resolve these issues, including amendments to existing laws.

## Navajo Nation

### *The Honorable Russell Begaye, President*

In addition to his recommendations listed under the Confederated Tribes of the Goshute Reservation, Paiute Indian Tribe of Utah, San Juan Southern Paiute Tribe, and Navajo Nation section, the Honorable Russell Begaye provided the following written testimony for Navajo Nation.

Navajo Nation, much like many other tribes, needs funding to improve its public safety, particularly as it relates to violent crimes against women. The laws and policies created by the federal government have affected our Nation's ability to protect our women on our reservation. Complications arising from the complex nature of Indian criminal jurisdiction have led to high instances by the federal government to decline to prosecute violent crimes in Indian Country. The lack of dedication to prosecute violent crimes in Indian Country have led to distrust of the tribal and federal criminal justice systems by the victims of violent crimes. More importantly, more often than not, this disparity leaves victims without justice.

The Navajo Nation Human Rights Commission published a report titled, "The Status of Navajo Women and Gender Violence," detailing the status of domestic violence on the Navajo Nation, the failures of the federal and tribal justice systems, and the lack of resources for victims of domestic violence. Currently, Navajo Nation has just three women's shelters to serve the Navajo population, which totals nearly 175,000 people. The Commission's report emphasizes the inability of domestic violence shelters to provide adequate resources to the women and children seeking refuge from domestic violence. An additional recommendation is to provide additional resources for the Navajo Nation judicial and law enforcement districts to assist in the arrests, apprehension, prosecution, and monitoring of the perpetrators of violent crimes.

Perhaps equally problematic and uniquely tied to the issue of Indian criminal jurisdiction is the rural nature of the Navajo Reservation. The Navajo Nation totals 27,000 square miles across three different states, with an on-reservation population of 173,667 people. Navajo Nation currently lacks a sufficient number of police officers to effectively monitor all public safety issues on the reservation. In 2015, the Navajo Nation Police Department received 4,628 domestic violence calls. In the year prior, the department received 4,658 domestic violence calls.

## Nez Perce Tribe

### *The Honorable Shannon F. Wheeler, Chairman*

Nez Perce Tribe supports efforts to extend VAWA, such as the legislation proposed by Congresswoman Sheila Jackson Lee. Although set to expire on September 30, 2018, VAWA was extended until December 7, 2018. VAWA safeguards and establishes critical protections for women who experience intimate partner violence and sexual assault.

Reauthorizing VAWA will demonstrate that Congress believes every woman should have the freedom to live free of violence. As a leader, it is my role and respected responsibility to make administrative decisions while observing the rights and safety of women and children.

Access to services and engaging treatment and advocacy for women are pivotal to the future of our nation. As you are aware, the opioid crisis and violence against women have many common threads. As

the Chairman of Nez Perce Tribe, I ask for agency support of this bill and the prioritization of safety for women in the United States.

Our tribe believes the provisions of the bill will address many of the outstanding problems faced by women in Indian Country. The bill's focus on enhancing judicial and law enforcement tools; improving services for victims of domestic violence, dating violence, sexual assault, and stalking; providing services, protection, and justice for young victims of violence; reauthorizing and updating the Saving Money and Reducing Tragedies through Prevention Program to reduce dating violence; and helping children exposed to violence are all important components of the overall effort needed to address this problem.

The tribe believes it is also critical to engage men in preventing violence and expand grants under the Public Health Service Act to support training programs to improve the capacity of early childhood programs to address domestic violence, dating violence, sexual assault, and stalking among the families they serve. It is also necessary to preserve and expand housing protections and provide economic security assistance for survivors. We also support improving tribal access to federal crime information databases and reaffirming tribal criminal jurisdiction over non-Indian perpetrators of violence.

Nez Perce Tribe sincerely appreciates those members of Congress who worked to draft this bill. The bill will safeguard women and allow Nez Perce Tribe to continue providing victim services to rural American Indian women on the reservation and holding offenders accountable. The present and future health and safety of women is critical to our communities across the United States and for Nez Perce Tribe.

Again, the tribe requests actions that support victims of intimate partner violence and sexual assault.

## **Nottawaseppi Huron Band of the Potawatomi**

***The Honorable Jamie Stuck, Tribal Chairperson***

The opportunity to provide our written recommendations will ensure that we are doing all that we can to assist you in administering funds, enhancing safety for Indian women and girls, and strengthening the federal response to crimes of domestic violence. Thank you for your work on behalf of Indian women, girls, and families and for this opportunity to submit our written recommendations.

Nottawaseppi Huron Band of the Potawatomi (NHBP) respectfully makes the following recommendations.

### **Administering Funds and Programs for Tribal Governments**

NHBP requests that the federal government increase funding to enable tribes to create and provide services for children and families impacted by domestic violence. Such funding would help provide access to quality representation for legal services for families, including custody and divorce cases; emergency services; therapists specially trained in trauma; cultural events and traditional practices; and safe and affordable housing opportunities for low-income victims of domestic violence.

Funding should be provided directly to tribes rather than offered through state discretionary funding. For example, STOP Violence Against Women grants provided to the states allocate 30 percent for victim services, 10 percent of which must be used for culturally specific, community-based organizations. States have regularly failed to conduct meaningful consultations with tribes. Furthermore, this 10 percent should be increased and may be taken from the 15 percent discretionary fund allocated to the states. As an example, the VOCA has most recently allocated three percent of the fund directly to tribes

so that victims may receive services in their own communities. This is a monumental opportunity for tribes to provide services to victims of crime.

DOJ should fully implement VAWA 2005 with the current unobligated funding of \$1.6 million to research and provide tribes with information regarding the disappearance and murder of Native American women.

### **Enhancing the Safety of American Indian and Alaska Native Women**

NHBP recommends a full Oliphant fix as the best and most efficient solution to handle domestic violence and sexual assault committed by non-Indians in Indian Country. In the interim, SDVCJ should be expanded to cover crimes that are commonly committed concurrently with domestic violence crimes. Currently, SDVCJ does not allow tribal prosecutors to charge non-Indian defendants for domestic violence crimes related to the abuse or endangerment of children, which occur in the majority of domestic violence cases prosecuted under VAWA. Furthermore, tribes are currently unable to prosecute non-Indians for crimes that commonly co-occur with domestic violence crimes, such as those related to drug abuse and destruction of property, and crimes that occur within the criminal justice system, such as resisting arrest, obstruction of justice, or perjury. The ability to prosecute these types of crimes is essential to ensuring justice for victims of domestic violence. In addition, the U.S. government should engage in consultation with tribes to discuss increasing federal penalties for anyone violating tribal exclusion or protection orders, those who pose a serious threat to others and damage property in Indian Country, and repeat offenders. This consultation would be of valuable assistance to tribes with limited ability to enforce exclusion and protection orders under VAWA 2013.

NHBP recommends that the U.S. government expand tribal jurisdiction to include non-Indians who operate human trafficking on reservations and in Alaska villages. The expansion of such jurisdiction should be accompanied by implementation of training to assist tribes in identifying and safely approaching victims of human trafficking in order to provide them assistance, as well as training to assist tribes in identifying human traffickers and the recruitment tactics they use. NHBP further suggests that the U.S. government institute a system for collecting more statistical evidence regarding human trafficking in Indian Country. Such information would be invaluable to tribes in the effort to prevent traffickers from recruiting victims and to prevent them from avoiding prosecution.

Finally, NHBP suggests the U.S. government implement proper training of state court personnel to ensure compliance with full faith and credit of tribal protection orders issued under VAWA 2013. It is imperative that state and tribal courts work together in order to effectively meet the goals of VAWA.

### **Strengthening the Federal Response to Violent Crimes**

NHBP strongly urges Congress to reauthorize VAWA. A continuing resolution does not address the urgent needs of victims and survivors as provided for in Title IX, Safety for Indian Women. A continuing resolution does not address jurisdictional gaps in the law, a full Oliphant Fix, the matter of missing and murdered Indian women, or programs needed in the communities of victims and survivors.

Congress is not upholding its trust responsibilities to assist tribes in providing critical services to survivors of domestic violence, stalking, rape, sex trafficking, sexual assault, and all other forms of violence. VAWA must be reauthorized to address the grave needs of communities to assist victims of these crimes. The 3-month extension recently granted by Congress is insufficient to provide the meaningful legislative fixes imminently needed to assist tribes in combating violence against Native

women in their communities. A long-term reauthorization is necessary to resolve the ongoing issues experienced by tribes under VAWA.

NHBP also recommends the reauthorization of TLOA. This reauthorization should include an amendment to direct the federal public defender to designate a tribal liaison for each district that includes Indian Country. TLOA should also be amended to improve justice for Native youth by requiring the Secretary of the Interior, Attorney General, and Administrator of the Office of Juvenile Justice and Delinquency Prevention to assist tribes in addressing juvenile offenses and delinquency prevention, developing a system for collecting data on Native youth, and notifying tribes when a youth comes into contact with the federal, state, or local juvenile justice systems. Furthermore, U.S. Attorneys should be held accountable for necessary case coordination and communication with tribal officials under TLOA. If a U.S. attorney declines to prosecute a sexual assault or domestic violence case, tribal officials deserve timely notification so they may determine whether to proceed with tribal prosecution within the applicable statute of limitations.

The approval of Savanna's Act would greatly improve the federal response to the crisis of missing and murdered Native people in Indian Country. This Act would require data collection on missing and murdered Native people in the federal criminal information databases, which will allow tribal authorities to better sort through relevant information to solve crimes and develop prevention strategies. The Act would direct the Attorney General to consult with tribes on how to improve access to these systems. In addition, it would create standard protocols to resolve inter-jurisdictional issues that can be a barrier to solving cases of missing and murdered Native Americans. NHBP strongly suggests the passage of this Act.

The current tribal consultation process should be updated to allow for tribes to be more responsive. This change may be accomplished by providing the consultation framing paper to tribal leaders at least 90 days prior to the consultation. Also, information should be provided at the time of notice for the consultation. These changes would afford tribes more time to develop meaningful responses. We appreciate the extended time period provided for each tribe to provide testimony.

Finally, we recommend initiating consultation with tribal governments on options to increase federal penalties and other deterrence measures for non-Indians who violate exclusion orders and protection orders.

### **Improvement of the Grants to Tribal Governments to Exercise SDVCJ Program**

Most tribes do not have the capacity to reassert their inherent sovereign power to exercise SDVCJ. VAWA has placed insurmountable requirements on tribes before they can begin exercising SDVCJ. Even tribes that have established governments, programs, and services, including a court, police department, prosecutor, in-house counsel, and victim services, have to weigh the pros and cons of asserting SDVCJ. The costs of implementing jails or detention facilities, probation programs, indigent defense counsel, court personnel, victim services, and so on, can be overwhelming. The list of requirements to implement the law is long. OVW must create grant programs for tribes to support them in implementing the legal requirements of the law, as it is not an easy task.

Often, under-resourced tribes lack the ability to even apply for grants. Furthermore, a tribe that does receive a grant cannot depend on the funding beyond the grant period. Funding should offer flexibility to meet the unique and changing needs of each tribe.

## Remaining Tribal Jurisdiction Program Funds

DOJ should establish a program to cover health care costs for non-Indian inmates. This expense is one of the major reasons that tribes have not applied for SDVCJ funding and have not chosen to reassert their inherent sovereign authority over non-Indians for crimes of domestic violence.

DOJ should use this unobligated funding to fully implement VAWA 2005 by researching and providing tribes with information regarding the disappearance and murder of Native American women and people. All federal departments should take the necessary action to enact the following protocols.

- Review, revise, and create law enforcement and justice protocols appropriate to the disappearance of Native women and girls, including addressing inter-jurisdictional issues.
- Provide increased victim services to the families and community members of the disappeared and murdered Native women, including but not limited to Native and non-Native services, such as counseling for the children of the disappeared, burial assistance, community walks, healing practices, and other tribal-specific ceremonies.
- Coordinate efforts across federal departments to increase the response to the disappearance or murder of Native women and girls.
- Coordinate efforts in consultation with tribes to increase the response of state governments, where appropriate, to cases of disappearance or murder of Native women or girls.

This funding should be used to support tribes in building capacity from the ground up, since most tribes do not have any of the services or programs listed under the grant program for tribal governments. The following programs require capacity building.

- Strengthen tribal criminal justice systems to assist tribes in exercising SDVCJ. Capacity building should include technical assistance and support related to law enforcement, prosecution, trial and appellate courts, probation systems, detention and correctional facilities, alternative rehabilitation centers, culturally appropriate services and assistance for victims and their families, criminal codes and rules of criminal procedure, appellate procedure, and evidence.
- Provide indigent criminal defendants with the effective assistance of licensed defense counsel at no cost to the defendant in SDVCJ cases.
- Ensure that jurors are summoned, selected, and instructed in a manner consistent with all applicable requirements in SDVCJ cases.
- Afford rights similar to those described in Section 3771 (a) of Title 18 victims of domestic violence, dating violence, and violations of protection order rights, consistent with tribal law and custom.

Tribes need assistance to establish these requirements. This need can be fulfilled with technical assistance and funding for capacity-building. This support must occur from the ground up. Only then will all tribes be able to provide a safe community for their people.

## Sault Ste. Marie Tribe of Chippewa Indians

*The Honorable Jennifer McLeod, Tribal Council Member*

As always, my tribe and I want to work in partnership with you. The Sault Ste. Marie Tribe of Chippewa Indians has more than 44,000 members, making it the largest tribe east of the Mississippi River. We are located in a rural area along the Michigan-Canada border, with an 8,500 square mile service area that includes 9 reservations and trust land sites. Despite our success and efforts to cooperate with our federal partners, we have not achieved the goals of VAWA within our jurisdiction. We see that other tribal governments across most of Indian Country face similar struggles.

The Sault Ste Marie Tribe of Chippewa Indians believes the federal government needs to become a stronger ally with tribes to meet the goals of VAWA. Specifically, the Sault Ste. Marie Tribe of Chippewa Indians makes the following recommendations.

### Working with U.S. Attorney's Offices

DOJ must mandate U.S. Attorneys work collaboratively with tribes. Often, tribal court sentencing limitations and the costs of incarcerating and rehabilitating offenders constrain tribal justice. Since we implemented SDVCJ, our tribal court has handled two SDVCJ cases involving sexual assault and three involving strangulation. These cases were so horrendous that we believe tribal justice alone is not enough. Despite having exclusive jurisdictional authority, the U.S. Attorney's Office will not prosecute these crimes because the tribe filed SDVCJ allowable charges within its own tribal court. This reasoning goes against the U.S. vs. Wheeler ruling, which holds that the right of tribes to punish an offender is an inherent tribal sovereignty right, not a federally granted power, and that the prosecutions of separate sovereign governments does not violate a defendant's right against double jeopardy. This refusal also shows a contemptible lack of concern for justice. U.S. Attorney's Offices must be mandated to address particularly vicious crimes against Indian women to ensure that offenders are held accountable.

Overall, the U.S. Attorney's Office needs to be more responsive to violent crimes in Indian Country. Of the referred tribal cases in 2016, 50 percent were resolved, 25 percent were declined, and 25 percent were disposed of under the classification of "other." The 74 percent of cases the U.S. Attorney's Office declined in 2016 were for violent crimes in Indian Country.

In the last year, our tribe has had two instances of non-Native juveniles sexually assaulting their Native step-siblings. The tribe has no jurisdiction, so we requested the U.S. attorney to prosecute. We were informed that the U.S. attorney will not indict the offenders because juvenile offenders will not be provided adequate rehabilitative services within the federal system. In this example, we have identified the victims, identified the offenders, identified where and when the crimes have taken place, and explained that the crimes are ongoing, and the federal government will not pursue justice for the victims. Tribal governments cannot do anything to stop these crimes from continuing. This example explains why U.S. attorney offices must be mandated to work in partnership with tribes to meet the goals of VAWA.

Internal U.S. attorney office processes unintentionally create barriers for tribal nations referring criminal cases for federal prosecution. Our tribe is required to complete a checklist before they will formally accept a referred criminal case. This checklist is not a requirement for any other non-tribal entity that refers criminal cases for federal prosecution.

Section 201 of TLOA requires U.S. attorneys to coordinate with tribal justice officials on the use of evidence when declining to prosecute or refer a reservation crime. U.S. attorneys need to notify tribal officials in a reasonable amount of time when declining to prosecute so that, in the case of an Indian defendant, a tribal prosecution may proceed, or in all other cases, tribes can at least notify the victim of the status of the case so the victim may take the necessary steps for protection. A sexual assault case that we referred in 2016 has yet to be indicted or declined. It is impossible to provide any acceptable explanation to victims when they question why the federal criminal justice system was not responsive. The safety and healing of Indian women depends upon the U.S. attorney offices being responsive to violent crime occurring within Indian County.

DOJ has created programs that sound good, but not all U.S. attorney offices execute them well. For example, the Tribal SAUSA Pilot Project trains tribal prosecutors in federal law, procedure, and investigative techniques to increase the likelihood that every viable violent offense against Native women will be prosecuted in federal or tribal court or both. The pilot program is supposed to enable DOJ to increase engagement, coordination, and action on public safety in tribal communities. Nevertheless, and despite tribal need, our tribe has been unable to garner the support necessary to have a prosecutor serve as a Tribal SAUSA. Grant applications for funding of a SAUSA require U.S. attorney support and collaboration. The U.S. attorney office's failure to work cooperatively and collaboratively with all tribes undermines overall DOJ efforts, leaving pockets of Indian Country unprotected and creating inaccessible funding resources. Until DOJ forces U.S. attorneys to work with tribes, nothing will change.

## Funding

Successful tribal law and order programs need to be adequately funded. Like most tribes, we do not have much money. For example, our tribal court is significantly underfunded. According to the scalable tribal court budget model provided by BIA in 2016, our tribal court needs \$5 million annually, based on our service population. Congressional failure to adequately fund tribal courts has resulted in our tribe receiving only 3.76 percent of the funding necessary to operate a tribal court capable of meeting our population's needs. As another example, our tribe has not applied for funds that we desperately need to support exercising SDVCJ because the application for the grant required too much time, effort, and resources.

Please understand we need basic operational dollars for our work as sovereign governments. We need ongoing, mandated funding to operate our governments.

### *SDVCJ Funding*

Currently, the SDVCJ grant application is unworkable. It is too cumbersome and intrusive. We strongly recommend the application process be changed. Many tribes, like our own, do not have staff dedicated solely to grant writing. We do not have enough staff to meet basic criminal justice system needs, let alone write grants. States are not required to send judges' resumes, nor are they required to send copies of their laws. Tribes should not have to provide this information, either. Additionally, the application questionnaire goes well beyond the scope of VAWA. Please understand that it is difficult to estimate costs necessary for each fiscal year. For instance, our tribe estimated three SDVCJ per year, but since we implemented VAWA, the number of actual cases was triple that amount. Plus, it is difficult for tribes to project how much money is needed for defense attorneys, jury costs, and so on. If the tribe does not estimate enough money, funds run short. If the tribe estimates too much money, it cannot

reallocate the funds. We recommend the program include provisions that enable tribes to reallocate excess funds to meet the needs of other aspects of SDVCJ.

### *Funding for Tribal Courts and Law Enforcement*

Across the country, the base funding BIA provides for tribal courts, law enforcement, and detention is entirely inadequate. Last year, BIA released an unmet obligations report, which concluded that there is a more than \$2 billion unmet need for tribal law enforcement and court funding. While additional funding is available through DOJ and HHS under a series of grants, most of these grants are competitive programs that pose serious access issues for many tribes. Too often, the tribes with the financial and human resources to employ experienced grant writers end up receiving funding, while the under-resourced tribes are left without. Tribes that do receive funding cannot count on it continuing beyond the current grant period. As a result, there are countless stories of successful tribal programs disappearing at the end of a 2- or 3-year grant cycle. The Sault Ste. Marie Tribe of Chippewa Indians strongly recommends that the administration create an inter-agency working group to develop a proposal that would bring much needed reforms to the tribal public safety funding system to better meet local needs. Such a group could identify ways to leverage funding resources and replicate best practices.

### *Purchase of Property*

As tribal jurisdiction has expanded, our funding shortages grow even greater. Grant funding typically prohibits property acquisition and construction costs. These costs need to become allowable. Within our own tribe, we are running out of space. Expansion will likely require property purchases and construction. In recognition of tribal sovereignty, the department should not exercise this kind of internal discretion. The Sault Ste Marie Tribe of Chippewa Indians recommends that every DOJ funding stream allow for the purchase of property and construction expansion of tribal justice facilities; acquisition of transitional housing units for victims; and operational costs of tribal justice programs, including prosecutors, law enforcement officers, and tribal court staff. Moreover, if allocations continue to decrease, DOJ must evaluate technical assistance provider costs for duplication and effectiveness. Technical assistance is beneficial, but not to the extent that it should be a funding priority when tribal nations are struggling to ensure the continuation of their justice system operations from one fiscal year to the next.

### *Legal Assistance for Victims Funding*

During 2017, our tribe was forced to end its 14-year Legal Assistance for Victims (LAV) program due to not receiving continued grant funding. The 2017 federal OVW LAV appropriation was \$34,692,492. Only 35 percent of the 171 grant applications were funded. During 2018, the Michigan Coalition to End Domestic and Sexual Violence partnered with our tribe to submit a LAV application and, again, it was not funded. The 2018 federal appropriation to OVW was for \$45,000,000, and only 46 percent of the grant applications were funded. The disparity between the evidenced need stated in grant applications and the actual funding allocation is dangerous. Native American victims are increasingly facing a lack of legal representation in divorce, custody, and child support court battles where perpetrators continue to use abusive tactics to maintain control over the victim and their children. This lack of representation is not acceptable, and victims and their children deserve better. Additionally, the OVW LAV grant solicitation is competitive, and only 2 of a total 115 awards were made to applicants from Michigan during 2016 and 2017; whereas, the state of California received 12 awards and New York received 19 awards. According

to the U.S. Census Bureau, California contains an estimated 12 percent and New York an estimated 6 percent of the entire U.S. population. However, these two states received 27 percent of all OVW LAV funding for 2016 and 2017. Given that annual LAV appropriations are so limited, distribution should follow some form of equitable access to LAV funding, rather than being based solely on grant application merit.

### *OVW Funding Rescission*

We recommend that the OVW rescission of funds from tribal programs never happens again. OVW continues to apply congressionally mandated rescissions to tribal programs. For example, \$3.2 million was taken from the 2016 Grants to Tribal Governments program. It is our understanding that OVW has discretion to determine how to apply the rescission across its funding lines. Because of the unique federal trust responsibility and heightened federal obligations to tribes and the disparities in crime and victimization we face, future rescissions should not be applied to tribal grant programs.

### *Funding Formulas and Timing*

We strongly recommend grant award announcements occur prior to September when grant fiscal years begin on October 1. This notice is the only ethical way to ensure victims remain informed that they may no longer have the support of their victim advocate or domestic violence shelter if new grant funding to sustain the service is not obtained. If award notifications were released during August, tribal programs may reduce the number of grant-funded employees leaving for more secure employment opportunities and help lessen trauma for victims who they must refer to other service providers and programs.

The newly created 3 percent tribal set-aside from the Crime Victims Fund is wonderful and exactly what tribes need. This funding has the potential to change the landscape of crime victim services in tribal communities, and tribal leaders are eager to engage in a discussion with DOJ and OVC about how to make the best use of these lifesaving funds. While the timing of the appropriations for FY 2018 created many challenges for administering this new funding, demonstrating success with the inaugural round of funding is essential.

Tribal governments have consistently asked that grant-making processes respect tribal self-determination and the government-to-government relationship. We strongly recommend that OVC adopt a method of distributing the funds among all eligible tribes that takes into account the need for sufficient base funding. We recommend OVC consider using the distribution formula for the FVPSA tribal program, which provides base funding in tiers and distributes any remaining funds to all eligible applicants on a per capita basis. However, in contrast to the FVPSA allocation method, we recommend determining per capita based on each tribe's certification of its population, rather than using U.S. Census data.

### *Flexible Funding*

The needs of victims in tribal communities may differ significantly from those in non-tribal communities. Further, different tribes have different needs, and it is important that the funding can be used flexibly. Congress enacted the tribal set-aside to rectify a longstanding inequity between tribal governments and state and territorial governments, and tribes should be able to engage in the same activities as other governments. We also recommend the project period for these grants be up to 4 years.

## Expansion of Tribal Jurisdiction

The lack of tribal jurisdiction over non-Indian offenders on Indian lands continues to be a key reason for the perpetuation of disproportionate violence against American Indian and Alaska Native women. VAWA 2013 addressed this issue for certain crimes of domestic violence, dating violence, and protection order violations for some tribes. However, many violent crimes against Native women and children continue to fall through the cracks for many tribes. Our tribe has heartbreaking examples of individuals we cannot help, simply because we lack jurisdictional authority over the offenders, and, often, the U.S. attorney office fails to prosecute. For those tribes implementing the jurisdiction provision of VAWA 2013, funding and resources are a significant problem. Tribes have also raised concerns about how they will cover health care costs for non-Indian inmates who are sentenced in tribal courts.

### *Enhanced Tribal Sentencing Authority*

Section 304 of TLOA grants tribal courts the authority to sentence offenders for up to 3 years' imprisonment for any one offense for up to three consecutive offenses under tribal criminal law if certain protections are provided. This authority is a significant improvement, although the maximum sentence for any one offense still falls short of the average sentence of 4 years for rape in other jurisdictions. Tribes must also have the capacity to house the offender in detention facilities that meet federal standards; otherwise, the enhanced sentencing power is meaningless. Further, giving tribal courts enhanced sentencing authority is meaningless without giving tribes funds to cover the expenses of enhanced sentences.

### *Full Access to Federal Databases*

TLOA and VAWA require the Attorney General to permit Indian law enforcement agencies to enter information into and obtain information from federal criminal information databases. We are concerned that not all Indian tribes have access to the NCIC under TAP. We understand that TAP is currently limited to tribes with SORNA-compliant sex offender registries or full-time tribal law enforcement agencies. For tribal protection orders to be effective, tribes need to be able to enter them into the protection order file of NCIC. In addition, while TAP enhances tribal sovereignty by offering direct access, barriers in the federal law still limit this access. The repurposing of the tribal registry funding under VAWA 2005 to support TAP should be open to all tribes. We need to ensure that all tribes can access federal databases not only to obtain criminal history information for criminal or civil law purposes, but also to enter protection orders, missing person reports, and other relevant information. The 2018 TAP grant application process is greatly improved through the reduction of unnecessary tasks. However, until tribal justice systems are funded at levels necessary to meet basic needs, it is virtually impossible to contemplate expansions and enhancements necessary to meet our tribal goals and objectives.

## Meaningful Consultation

Meaningful consultation includes providing tribes with adequate time to prepare. In previous years, tribes did not receive the consultation framing papers until just days before the consultation.

## Conclusion

In closing, to meet the goals of VAWA, the federal government must become a stronger partner with tribes. The world is watching. The 1993 UN Resolution on the Declaration on the Elimination of Violence Against Women is followed closely by the UN Commission on the Status of Women, the UN Permanent Forum on Indigenous Issues, and the UN Human Rights Council. The United States' failure to keep

indigenous women safe is an international shame. Our federal partners need to step up and work with tribal governments in a meaningful manner to achieve the purposes laid out by VAWA.

## Recommendations

- Mandate U.S. attorney offices to prosecute particularly vicious crimes against Indian women, as requested by tribes, even when a tribe has SDVCJ.
- Require U.S. attorney offices to be more responsive to violent crimes in Indian Country and work with tribes to uphold VAWA.
- Prohibit U.S. attorney offices from implementing internal processes that unintentionally create barriers for tribal nations referring criminal cases for federal prosecution.
- Hold U.S. attorney offices accountable for coordinating with tribal justice officials on the use of evidence when declining to prosecute or refer a reservation crime.
- Create an interagency working group to develop practical funding solicitations and review grant award disbursement policies.
- Revise the application for SDVCJ funding to be less cumbersome and intrusive.
- In SDVCJ funding, include provisions that enable tribes to reallocate excess funds to meet the needs of other aspects of the SDVCJ program.
- Create an interagency working group to develop a proposal that would bring much needed reforms to the tribal public safety funding system to better meet local needs.
- Make allowable, under all DOJ grants, the purchase of property and construction expansion of tribal justice facilities; acquisition of transitional housing units for victims; and operational costs of tribal justice programs, including prosecutors, law enforcement officers, and tribal court staff.
- Do not apply future funding rescissions to tribal grant programs
- Use the FVPSA tribal funding approach as a model for distributing OVW funds, but use tribally reported population data rather than census numbers.
- Take a broad view of what constitutes activities that will “improve services to victims of crime.”
- Use the recently updated VOCA regulations applicable to the state victim assistance programs as a starting place for determining the parameters of the tribal program, and consult with tribal governments about how these regulations should be augmented to address the unique tribal context.
- Allow no-cost extensions for grant awards. Approve grant award budgets before releasing grant award notifications.
- Support a permanent fix to VOCA tribal funding by passage of the SURVIVE Act.
- Reaffirm tribal criminal jurisdiction over non-Indian perpetrators of domestic violence, sexual assault, dating violence, stalking, and trafficking for all tribes and include necessary funding. Expand tribal jurisdiction to include crimes against children and crimes involving strangers.
- Work with Congress to ensure the Bureau of Prisons Pilot Project is reauthorized and fully funded to include transportation mechanisms and funding to support the operational costs of tribal nations that want their own detention facilities.
- Establish a federal workgroup to identify options for covering health care costs for non-Indians sentenced in tribal courts.
- Reform applicable federal laws that impede tribal access to criminal databases, and add tribes to P.L. 92-544, which CJIS identifies as limiting full tribal access.

- Create tribal technical assistance programs and host regional trainings for tribal judges, tribal attorneys, child welfare agencies, and law enforcement to educate them about how to facilitate better coordination to ensure that lifesaving protection orders are entered into the NCIC database.
- Create a multidisciplinary task force with significant tribal participation to identify the outstanding barriers tribes face in acquiring full access to federal criminal history databases, and develop a plan to resolve these issues, including amendments to existing laws.
- Distribute framing papers no less than 1 month prior to the start of a tribal consultation.

## Tohono O’odham Nation

*The Honorable Edward D. Manuel, Chairman*

VAWA mandates that the Attorney General conduct annual government-to-government consultations with tribal nations regarding “enhancing the safety of [American Indian and Alaska Native] women from domestic violence, dating violence, sexual assault, stalking, and sex trafficking; strengthening the federal response to these crimes; and administering VAWA funds and programs.”

It is important to start with the principle that a tribe's first duty is to protect its people. Tohono O'odham Nation's sovereignty operates, in part, to safeguard the political integrity, economic security, and health and welfare of our community. Nothing is more important or vital to the survival of our people. Thus, we support laws like the VAWA and TLOA, which strengthen the federal government's support and response, restore tribal inherent criminal jurisdiction, and reestablish tribal criminal sentencing authority. However, in 2018, a public safety and public health crisis is still present on most Native American reservations. The long-term absence of safety has brought on a crisis of confidence in both tribal and federal justice systems. In addition to the challenges created by jurisdictional complexities and limits on tribal authority, a lack of resources for tribal justice systems continues to undermine the safety of our families. Recent and important tribal justice measures presented some Indian nations with an opportunity to restore and exercise selected and limited authority to protect their people. However, notwithstanding VAWA and crime-fighting efforts of tribes and their federal partners, there still exists injustice that has darkened Indian Country for decades. The new legal and jurisdictional tools, while important, will not be sufficient absent appropriate funding for tribal court systems, additional support for victims, training for court actors, and funding for mental health and support services.

### Background

Since time immemorial, long before observance of the international border, the formation of the United States, and the birth of the state of Arizona, Tohono O'odham Nation ancestors inhabited an enormous area of land in the southwest, extending south to Sonora, Mexico, north to Central Arizona (just north of Phoenix, AZ), west to the Gulf of California, and east to the San Pedro River. This land base was known as the Papaguera, and it had been home to the O'odham for thousands of years. From the early 18th Century to the present, the O'odham land was alternately claimed by foreign governments. With the independence of the Republic of Mexico, O'odham fell under Mexican rule. In 1853, through the Gadsden Purchase or Treaty of La Mesilla, O'odham land was divided almost in half between the United States of America and Mexico. The Tohono O'odham Nation is the second-largest tribal nation in Arizona, both in size and population. The current land base of 4,600 square miles (2.8 million acres), can

be compared to the size of the state of Connecticut. The capital of the Tohono O'odham Nation is Sells, AZ, which is centrally located with about 2,500 residents. There are 83 other villages scattered throughout 11 legislative districts, and some are very remote with no electricity, running water, telephone service, or internet access. There are approximately two people per square mile, making the reservation rural, remote, and underserved.

## **Demographics**

Approximately half of the nearly 34,000 enrolled Tohono O'odham tribal members live scattered throughout the vast reservation. The unemployment rate for the population over 16 years of age is 55 percent. In 2010, 41 percent of the on-reservation population, or roughly 4,575 people, lived below the federal poverty level in the previous 12 months. Just 31 percent earned more than 200 percent of the federal poverty level, and only 40 percent have earned a high school diploma or equivalent. The average family household size is four people, which is greater than both the state and Pima County averages. Female heads of household account for over half of the family households. Women make up roughly 56 percent of the labor force. A third of the households have children. Households on the Tohono O'odham Nation are four times more likely to contain other relatives, compared to households in the state or Pima County.

Many individuals live with mental illness or emotional disorders and may also use or abuse alcohol or drugs. Because of these conditions and other factors, the need for comprehensive and adequate justice services, public health, and mental health services is great. These circumstances create unique inter-jurisdictional challenges for the tribal justice, health care, and social service systems.

## **Law Enforcement**

The location and size of the Nation's reservation present unique law enforcement challenges. The Tohono O'odham Police Department must cover a huge geographic area, including many remote and isolated areas that are difficult to access. Communication among law enforcement agencies is also a challenge. As a result, drug trafficking, illegal immigration, and border security are significant issues for our police force. The Nation spends millions annually from tribal revenues to help meet U.S. border security responsibilities. Additional funding is desperately needed to hire and train officers, purchase vehicles, and reinforce victim services. BIA recently conducted an analysis of law enforcement needs pursuant to TLOA and found that current funding meets only 42 percent of the need for law enforcement, and tribal law enforcement departments need an additional \$337 million to bring staffing up to median county government law enforcement levels, based on population.

## **Sex Offender Registration and Notification**

Tohono O'odham Nation was one of the first tribes to establish a sex offender registry. In 2000, the Tohono O'odham Legislative Council passed an ordinance requiring registration of convicted sexual offenders who enter or remain within Tohono O'odham Nation, in accordance with SORNA. Sex offenders are required to register or update their existing records with the Tohono O'odham Nation Police Department immediately if they reside on the reservation or within 24 hours of being within our jurisdiction if they merely enter our lands. Offenders who are required to register must also appear in person every 90 days to update their registration. Currently, there are 430 sex offenders in the Nation's digital registry. In 2011, the DOJ OJP Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking found that Tohono O'odham Nation has substantially implemented SORNA.

In 2016, Tohono O'odham Nation was selected to participate in TAP. We received access to national databases and training for our tribal agencies. Our law enforcement, prosecutor, criminal courts, and probation department have access to the databases. TAP enhances our efforts to register sex offenders pursuant to SORNA, have orders of protection enforced off reservation, protect children, keep firearms away from people who are disqualified from owning them, improve the safety of public housing, and enter arrests and convictions into national databases.

### **Problems Associated with the International Border**

For thousands of years, our ancestors freely traveled back and forth to what is now Mexico to visit family and friends, participate in cultural and religious ceremonies, and engage in many other practices, like subsistence hunting and seasonal food gathering. The Gadsden Purchase of 1854 divided Tohono O'odham Nation's traditional lands and separated our tribal communities. Tohono O'odham Nation has been on the front lines of border security issues for more than 160 years. In 1993, Operation Gatekeeper tightened border security at U.S. ports of entry, which funneled undocumented immigrants, drug traffickers, and human traffickers into remote desert regions, such as Tohono O'odham Nation's lands. Drug and human trafficking across the international boundary negatively impacts our members. The criminal activity is also tied to damage to the Nation's cultural resources, illegal dumping, and environmental degradation. Over the past decade, the Nation has spent an average of \$3 million of its own money annually on border security and enforcement. The Nation's police force typically spends more than half of its time on border-related issues, drawing limited law enforcement resources away from patrolling reservation communities. Drug cartels have infiltrated some of the Nation's communities and, at times, have recruited or coerced tribal members to work as smugglers. Tribal members have also been federally prosecuted for border-related crimes, which in turn, impacts families and can create ancillary child welfare cases that add strain to our communities.

We continue to face ongoing challenges due to the current border crisis. Violent crime, substance abuse, child abuse, and domestic violence are directly related to persistent problems with the international border. Local governments and federal agencies may not be aware that Tohono O'odham Nation and other border tribes are experiencing these problems and that their geographic location, culture, and historical border-crossing practices should be considerations when addressing these matters. State courts, court practitioners, federal officials, and other stakeholders may not fully appreciate or be sensitive to tribal family culture or structure, tribal court practices, or basic Indian Country jurisdiction and how those issues interplay at the federal, state, and international levels. Federal investigative and court resources have been overwhelmed with humanitarian, refugee, and transnational criminal crossings of the southern border. This situation pulls limited federal law enforcement resources and support from southern border tribes and their important criminal matters. The impact to tribal families who reside in our village communities is immeasurable. Unfortunately, combating transnational cartel crime associated with drug and human trafficking will continue to be a top priority for Tohono O'odham Nation.

### **Domestic Violence**

There are major flaws in the jurisdictional framework of Indian Country. The criminal and civil jurisdictional structure, capability of tribal justice systems, inadequate federal law enforcement response, and lack of resources prevent tribes from properly protecting women, children, and whole families from harm. Instead, this structure contributes to the physical harm, emotional distress, and

discrimination they experience. The lack of access to justice, safety, or redress based on where indigenous families live or their gender, economic circumstances, or tribal enrollment status have created deep-rooted historical patterns of violence, trauma, abuse, and increased risk of sexual and economic exploitation, stalking, and sex trafficking. Further, domestic and dating violence perpetrated by non-Indians mostly goes unprosecuted in Indian Country and on the Tohono O’odham Nation. The long-term trauma resulting from a lack of justice has severely impacted the public health and welfare of our communities.

The direct and indirect costs of domestic violence and other violent crimes on our lands are staggering. Violence directly causes long-term physical, psychological, economic, and social harm and contributes to other negative health outcomes, like substance abuse and addiction. Indirectly, violence adversely impacts tribal health care expenditures and tribal law enforcement and detention costs. Violence harms the tribal economy by impeding economic development.

According to the Centers for Disease Control and Prevention, the following risk factors put Tohono O’odham Nation at increased risk for intimate partner violence: young age, low income, low academic achievement, and unemployment, among other factors. According to the 2010 Census, 38 percent of tribal members are under the age of 18, with a median age of 29 years. Poverty rates on Tohono O’odham Nation are at 41 percent, which is twice as much as the state and county levels. Of the Tohono O’odham children under 18, 51 percent live in poverty.

## Victim Services

The Tohono O’odham Department of Health and Human Services Division of Adult Protective Services offers services for victims of elder abuse. In 2013, Adult Protection Services received 241 referrals for suspected elder abuse, neglect, and exploitation. Tohono O’odham Nation received the Elder Abuse Prevention Grant from HHS in 2013, which helps increase early identification of vulnerable elders and enhance service provider response, capacity, and coordination.

The Division of Behavioral Health houses and oversees the Komckud Ki: (Tortoise House) Domestic and Sexual Violence Prevention Program, which receives OVW funding. The program addresses domestic violence and sexual assault, providing 24-hour crisis intervention services, community awareness and education, emergency assistance and support, court accompaniment, advocacy, information and referral, and system coordination for survivors. The program has established good working relationships with service providers.

The program works with Tohono O’odham Nation police officers to perform a Lethality Assessment Protocol screening to assist a victim's immediate safety needs. In sexual assault calls, the program provides the victim the option to undergo a forensic medical examination. Currently, if they choose to do so, the victim exam is provided at a designated hospital off the reservation approximately 80 minutes away. Primarily, the staff meets with the victim, informs them of the options and services, and provides transportation and follow-up support as needed. The Komckud Ki: Program staff provide ongoing assistance, information, referrals, transportation, accompaniment, legal advocacy, and interpreters when needed, and they serve as a liaison with law enforcement, prosecutors, court personnel, health and social service providers, and family members.

Since 2005, the Komckud Ki: Program has developed response protocols and provided direct support services to over 497 victims. The Komckud Ki: Program has also provided specialized training for Tohono

O'odham survivors, law enforcement, prosecutors, judges, health care professionals, and other tribal government personnel on how to appropriately respond to domestic violence and sexual assault situations. Since its inception, 326 multi-disciplinary professionals and first responders have benefited from the training. The program presented community education workshops to more than 6,046 tribal members. The Komckud Ki: Program also operates a shelter for survivors of domestic violence and sexual assault.

The Tohono O'odham Nation Prosecutor's Office has a tribally and grant-funded victim witness program with four employees who are responsible for providing onsite assistance to victims of and witnesses to crime; obtaining protection orders; informing victims of their rights; providing service of process; keeping victims apprised of court hearings; providing referrals to civil legal services and shelters; providing cultural support during federal referrals, counseling, or other services; and providing transportation across the reservation to victims or witnesses. Currently, this program can only provide onsite assistance during business hours due to limited staffing and high potential for burnout.

### **SAFESTAR Program**

In 2011, 16 Tohono O'odham women completed SAFESTAR training, a 40-hour intensive training delivered by SANEs, lawyers, Native community health experts, advocates, traditional healers, and experts on tribal governance and community organizing.

SAFESTAR is a unique model of care that draws upon the strength and resilience of Indigenous women to improve safety and justice outcomes for victims of sexual violence and to provide long-term, compassionate, culturally meaningful, holistic care. SAFESTAR is designed for American Indian and Alaska Native communities that are currently without the capacity to support universal access to SANE services. The SAFESTAR project provides intensive training and technical support to specially selected laypersons and traditional health care providers to:

- deliver emergency first aid to sexual assault survivors;
- provide referrals for follow-up medical care and other care;
- educate communities on the harm caused by sexual violence and lead the way back to healthy, respectful ways of living; and
- collect sexual assault forensic evidence to promote increased accountability for perpetrators.

The course covers emergency first aid, anatomy, an overview of the prevalence and dynamics of and responses to sexual violence in American Indian and Alaska Native communities, forensic evidence collection, health care referrals, confidentiality, federal and tribal sexual assault laws, service referrals, and community outreach. The curriculum incorporates many of the same components as the SANE certification course, but it is designed for qualified laypersons in American Indian and Alaska Native communities. The SAFESTARs attended an advanced training on emerging issues regarding sexual assault care in September 2018.

### **Violent Crimes**

Domestic violence and sexual assault remain major public health concerns for Tohono O'odham women and girls. The number of domestic violence and sexual assault incidents reported each year to the Tohono O'odham Police Department provides a snapshot of the true nature and scope of the problem.

Table 1 illustrates the prevalence of these crimes. The figures reveal a 52 percent increase in reported domestic violence cases from FY 2008 to FY 2014.

*Table 1: Tohono O'odham Police Department crime data, 2008–2014*

<b>Nature of the Crime</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
<b>Domestic violence</b>	251	261	326	249	402	475	479
<b>Rape</b>	14	23	14	19	20	13	15

Domestic violence and sexual assault statistics from the Tohono O'odham Police Department highlight the continual need for services provided by the Komckud Ki: Program and other providers. It is important to note that the number of arrests and prosecutions are only a small fraction of the actual incidents that occur. Additionally, an increased number of incidents reported does not necessarily indicate an increase in the number of crimes against women and girls, but may indicate a change in the victim's confidence in tribal support services. For example, reports from first responders, local police officers, criminal investigators, health care professionals, social service providers, and community members indicate that approximately 80 percent of sexual assaults they heard about were unreported. This statistic demonstrated the significant need to expand community awareness, improve training for law enforcement and service providers, and strengthen the effectiveness of prosecution to increase the overall reporting of domestic violence, dating violence, sexual assault, sex trafficking, and stalking on Tohono O'odham Nation.

Unfortunately, in September 2014, the Tohono O'odham Healing Our People through Empowerment (HOPE) sexual assault program ceased due to insufficient funding. The expiration of the HOPE grant has put a great strain on the Komckud Ki: Program. Presently, the five staff members continue to provide services to all victims who identify as a tribal member or others who reside within the boundaries of Tohono O'odham Nation.

There is also a lack of specialized, trauma-informed counseling for domestic violence, dating violence, sexual assault, sex trafficking, and stalking survivors available on Tohono O'odham Nation. Most counselors on Tohono O'odham Nation do not have specialized training in techniques to support survivors of these crimes. Therefore, victims are often referred for counseling services off reservation more than 80 minutes away, depending on where the survivor lives. Noncompliance in attending referred counseling is common for most victims due to lack of transportation and child care on Tohono O'odham Nation. Alternatively, many women seek guidance from traditional healers. However, even accessing personal offerings or obtaining transportation for traditional services can be difficult if women lack basic resources.

### *Dating Violence*

While denial and stigma are associated with dating violence, it is present on Tohono O'odham Nation. Most homes either have a single mother as the head of household or are made up of grandparents raising grandchildren. There is a need for increased awareness of dating violence, exposure to healthy relationships, and prevention and education that demonstrates how to identify unhealthy relationships.

### *Sexual Assault*

Although the number of rapes reported and referred for prosecution is low, there was an increase in the use of the Tohono O'odham Healing Our People through Empowerment (HOPE) Sexual Assault Program between 2012 and 2014. In 2013, 45 individuals received HOPE program services, and 93 percent of these people were assaulted by someone known to them. Of these individuals, 96 percent were women and 47 percent were between the ages of 13 and 24.

### *Sex Trafficking*

Although there are no concrete numbers regarding sex trafficking on our lands, victim services staff helped raise awareness that sex trafficking is present and needs to be addressed. There is a need for further identification of sex trafficking within the community, as well as training for service providers.

### *Stalking*

It is estimated that stalking is present in more than half of our crisis cases. Stalking is most often seen when a victim leaves an abusive situation and the abuser loses control of the victim. The program spends a large amount of time assisting victims to develop safety plans. However, no safety plan is ever concrete, as it may constantly change with the situation.

## **VAWA 2013**

The purpose of Section 904 of VAWA 2013 is to decrease domestic violence in Indian Country, strengthen the capacity of tribes to exercise their inherent sovereign power to administer justice and control crime, and ensure perpetrators of domestic violence are held accountable for their criminal behavior.

Since Section 904 became fully effective, 22 tribes have implemented VAWA SDVCJ and arrested non-Indians using restored tribal authority under VAWA 2013. Those tribes have arrested 130 different non-Indian perpetrators 145 times. Those arrests have led to 74 convictions and 5 acquittals, with some cases still pending. Arrests involving non-Indian defendants led to 73 guilty pleas, 21 dismissals, 19 declinations, 5 jury trials, and 1 jury trial conviction. Of these incidents, 51 percent involved drugs or alcohol and 58 percent involved children. At least 73 defendants had criminal records. Of these cases, 125 involved domestic or dating violence and 34 involved protection order violations. Additionally, 33 defendants were sentenced to jail, with 3 years being the longest sentence administered.

VAWA 2013 only allows tribal courts to prosecute non-Indians for a narrow set of domestic violence-related crimes. A 2018 NCAI report identified several legal gaps that tribes believe need to be addressed by Congress, including the lack of tribal court jurisdiction over crimes against children, law enforcement personnel, and sexual assault crimes committed by strangers. Under VAWA SDVCJ authority, a tribe must protect the rights of defendants under the Indian Civil Rights Act of 1968, including the right to due process. Due process requires including a fair cross-section of the community in jury pools, which does not systematically exclude non-Indians. Further, the due process rights also require informing defendants detained by a tribal court of their right to file federal habeas corpus petitions.

Congress recently proposed legislation to reauthorize VAWA with provisions that will help strengthen protections for Native American families and address gaps in the law.

Tohono O'odham Nation supports the following recommendations.

- Congress and federal departments must support and help reaffirm tribal criminal jurisdiction over non-Indian perpetrators of domestic violence, sexual assault, dating violence, stalking, and trafficking for all federally recognized tribes. Additionally, DOJ, BIA, and IHS should establish a methodology and options for covering health care costs for non-Indian offenders. We also recommend that Congress and all federal departments support increased funding for tribal implementation of SDVCJ and an eventual full Oliphant fix. Now that tribes guarantee all aspects of due process, there is no reason why criminal jurisdiction over non-Indian offenders should be limited to three distinct crimes. As noted by the VAWA-implementing tribes, crimes perpetrated by offenders not covered by SDVCJ are going uncharged and unpunished.
- Congress and the federal government should help coordinate and ensure the enforcement of the federal firearms provision and habitual offender statute. DOJ and DOI should coordinate federal-tribal workgroups and increase TTA to develop interjurisdictional partnerships and policies and protocols for districts with Indian tribes where violations of these federal statutes are not being charged. These efforts should also include coordination with tribes to increase the use of the statutes.
- We urge DOJ to fully implement the VAWA 2005 program of research and specifically provide tribes information regarding the disappearance and murder of Native women. We ask all federal departments take the necessary actions to: (1) review, revise, and create law enforcement and justice protocols appropriate to the disappearance of Native women and girls, including inter-jurisdictional issues; (2) provide increased victim services to the families and community members of the disappeared or murdered Native women, including but not limited to Native and non-Native services, such as counseling for the children of the disappeared, burial assistance, community walks, healing, and other tribal-specific ceremonies; (3) coordinate efforts across federal departments to increase the response to the disappearance or murder of Native women and girls; and (4) coordinate efforts in consultation with tribes to increase the response of state governments, where appropriate, to cases of the disappearance or murder of Native women or girls.
- We request federal accountability of extractive industries for crimes against Native women. DOJ, DOI, and HHS must address the escalation of sexual and domestic violence, including sex trafficking, due to extractive industries. Industries must be held accountable for the resulting violence of the itinerant workforces these industries create within tribal communities. DOJ and DOI should create standards of protection for tribal communities that extractive industries must comply with prior to, during, and post construction to protect Native women and children. These standards should also apply during the federal permitting processes. DOJ should assist tribes in safeguarding the lives of Native women where extractive industries employ a police force to ensure no militarized tactics, use of excessive force, or violations of civil rights are committed against members of tribal communities. HHS should enhance support for services and training for shelter and related advocacy services by developing materials addressing the needs of domestic violence victims of itinerant workers who local tribal authorities cannot hold criminally accountable.
- We request that OVC begin immediate consultation with tribes on the future distribution of VOCA tribal set-aside funding. We further recommend OVC consider using the FVPSA tribal program distribution formula, which was developed in consultation with tribal governments. It is

a particularly useful model because it focuses on victims of family violence and provides funding for services to crime victims. The FVPSA tribal formula provides for base funding in tiers with any remaining funds distributed to all eligible applicants on a per capita basis. Eligible applicants include all federally recognized tribes who demonstrate the capacity to provide services to victims of family violence. Different tribes will have different needs, so flexible funding use is important. We recommend that DOJ take a broad view of what constitutes activities that will “improve services to victims of crime” as set forth in the appropriations bill.

- The administration should consult with tribes to develop a proposal for reforming the tribal public safety funding system to better meet local needs. Currently, base funding for tribal courts, law enforcement, and detention provided through BIA is entirely inadequate. Often, tribes located in states included under P.L. 83-280 are completely shut out of this funding in their compacts. Last year, BIA released an unmet obligations report that indicated a more than \$2 billion unmet need for tribal law enforcement and courts funding. Funding provided through DOJ and HHS under a series of competitive grant programs pose serious access issues for many tribes. Moreover, funding for prevention, rehabilitation, and treatment programs, which are key components of any community's approach to crime reduction, come from IHS, the Substance Abuse and Mental Health Services Administration, and elsewhere within HHS. To obtain this funding, tribes must often compete against each other under the priorities and guidelines the respective administering agency sets. Too often, only the tribes with the resources to employ experienced grant writers end up receiving funding, while the under-resourced tribes are left without. Tribes that do receive funding cannot rely on it continuing beyond the initial grant period. As a result, there are countless stories of successful tribal programs disappearing at the end of a 2 or 3-year grant cycle.
- Hold U.S. attorneys accountable for necessary case coordination and communication with tribal justice officials under TLOA. The safety of Indian women depends upon it. Section 201 of TLOA requires U.S. attorneys to coordinate with tribal justice officials on the use of evidence when declining to prosecute or refer a reservation crime. Tribal officials need timely notification when a U.S. attorney declines to prosecute sexual assault and domestic violence cases so that, where appropriate, a tribal prosecution may proceed within the statute of limitations timeframe. This immediate notification also allows tribes to notify the victim of the status of the case so the victim may take the necessary steps for protection.
- Work with Congress to ensure the Bureau of Prisons pilot project is reauthorized and expanded and to remove any cap on tribal sentencing authority. Under Section 304 of TLOA, tribal courts can sentence offenders for up to 3 years' imprisonment for any one offense under tribal criminal law if certain due process protections are provided. This maximum sentence still falls short of the average sentence of 4 years for rape in other jurisdictions. Tribes must have the capacity to house the offender in detention facilities that meet federal standards; otherwise, the enhanced sentencing authority is meaningless. As long as tribes meet due process requirements, they should be able to use their inherent authority to sentence felony offenders through provisions in their tribal code.
- Ensure that tribal justice officials are notified of prisoner release and re-entry on Indian lands and to tribal villages in Alaska, regardless of the process by which these events occur. Section 601 of TLOA requires the U.S. Bureau of Prisons to notify tribal justice officials when a sex

offender is released from federal custody into Indian Country. Proper implementation of this provision is critical to the safety of Indian women and the rehabilitation of tribal citizens.

- Create a dedicated funding stream for expanding TAP and making access more widespread for tribes that meet CJIS security requirements and have recognized governmental purposes. The repurposing of the tribal registry funding under VAWA 2005 to support TAP should be open to all Indian tribes. We need to ensure that all tribes can access federal databases, not only for the purpose of obtaining criminal history information for criminal or civil law purposes, but also for entering protection orders, missing person reports, and other relevant information into the database, such as NICS disqualifying events. DOJ should create tribal technical assistance programs and host regional trainings for tribal judges, tribal attorneys, child welfare agencies, and law enforcement to educate them about the gaps in the current system and how to ensure that lifesaving protection orders are entered into the NCIC database. Finally, the Tohono O'odham Nation supports the NCAI Task Force recommendation that DOJ create a multidisciplinary task force with significant tribal participation to identify the barriers tribes face in acquiring full access to federal criminal history databases and develop a plan of action to resolve these issues, including amendments to existing laws.

### **Tribal Empowerment and Support is Key**

Tohono O'odham Nation strongly supports the reauthorization of VAWA and TLOA, which strengthen the federal government's response to crime in Indian Country, restore inherent tribal criminal jurisdiction, and reestablish tribal criminal sentencing authority. However, the starting place to reverse historical jurisdictional problems and injustices in Indian Country is with strong tribal justice systems supported with the required resources and training. BIA recently estimated that properly serving a population between 16,251 and 19,500 people would require funding for a full-time court at an annual cost of \$6 million. This amount does not include detention or law enforcement services.

Along with strong and meaningful federal prosecutions, tribal government programs and court systems are the best vehicles to protect tribal victims, mothers, and children from violent perpetrators. Without the resources and training to support robust court, law enforcement, detention, medical, and victim services, any recent gains may eventually lead to the same revolving door of repeat violence, child abuse, and ineffective criminal prosecutions that Indian Country communities are all too familiar with. Tribal efforts, combined with additional support, partnerships, coordination, and training for tribal justice system actors, will further the current federal strategy that promotes the longstanding policies of self-determination, tribal self-governance, and tribal sovereignty.

# DOJ Presentations

## COPS Funding

*Phil Keith, Director, Office of Community Oriented Policing Services*

COPS provides TTA to help tribes build capacity and prepare successful grant applications. Ten percent (\$30 million) of COPS funding is set aside for tribes. With the exception of hiring funds, most of the solicitations are now closed. However, the next grant cycle will include the \$30 million tribal set-aside again. The solicitation just closed for the \$25 million school safety set-aside, and the program only received six tribal applications. A lawsuit delayed the hiring grants, but the program anticipates having a definitive direction on this \$160 million by the end of September 2018. Mr. Keith encouraged tribes to apply for COPS funds during the next grant cycle.

## NIJ Research Initiatives and Programs Addressing Crime and Victimization in Indian Country and Alaska

*Tina Crossland, Senior Social Science Analyst, NIJ Office of Research and Evaluation*

VAWA mandated that NIJ, in partnership with OVW, conduct research on violence against Indian women living in Indian Country and Alaska Native villages and the effectiveness of federal, state, tribal, and local responses to violence.

In response to the congressional research mandate, NIJ has developed a research program that includes multiple studies, with the national baseline study as the capstone.

The Section 904(a)(3) federal advisory taskforce supported NIJ and OVW in developing research questions and strategies and providing recommendations based on findings. Research questions included:

- What are the factors that place Native women at greater risk for victimization?
- What strategies hold promise for improving the outcomes of this violence when it does occur?

The goals of the research are to:

- use methods of inquiry based on and sensitive to local customs and values while providing reliable, valid estimates of the scope of the problem and
- identify barriers to and possible solutions for dealing with significant public safety issues in tribal communities.

### National Baseline Study

The national baseline study will capture information on health and wellness, support services, perceptions of public safety, and opinions on law enforcement response. Researchers will gather this information through in-person interviews with Native women living in tribal communities. The study will identify gaps in services and jurisdictions.

To ensure true partnership with tribes in conducting this study, NIJ secured tribal resolutions from all participating tribes. Securing those participation agreements took the full three years allotted for the

project, so NIJ is working through the procurement process to continue the study, with plans to resume work by the end of 2018 or early 2019.

## National Missing and Unidentified Persons System

***Danielle Weiss, Lead Associate, DOJ Office of Investigative and Forensic Sciences***

The National Missing and Unidentified Persons System (NamUs) program brings together forensic science, technology, and investigative support services to help solve missing persons cases. It is free and provides a forum for law enforcement, medical examiners, families, and the public to share information. On any given day, there are 80 to 90 thousand active missing person cases in the NCIC. NamUs has helped solve many cases of missing people, including many long-term cold cases. In May 2018, NIJ launched NamUs 2.0, which provides an enhanced user experience. Anyone can use the system, though the public cannot see sensitive case information. Nine regional program specialists vet new cases and can assist family members in filing a report.

### *NamUs Forensic Services*

***B.J. Spamer, Director of NamUs Forensic and Analytical Services***

Forensic services available through NamUs comprise any forensic service that could help resolve a missing or unidentified person case, ranging from fingerprint examination to forensic odontology. NIJ established partnerships to ensure that when NamUs receives fingerprint records, the FBI and Department of Homeland Security run those records through their databases. In just over a year, they have resolved 219 cases this way.

NamUs also provides collection kits to gather voluntary submissions of DNA from family members to help identify their loved one. DNA samples are uploaded into the CODIS database, which is strictly regulated and only compared against unidentified decedents. Families can request to have their DNA profile removed at any time, since the samples are voluntary.

NamUs provides resources for families who never filed a missing person report or were turned away when trying to file one. NamUs works with the families to determine if the case should be reported to law enforcement or follow up on voluntary disappearances. The presenters shared several success stories about resolution of cases by using NamUs to bring together families and agencies.

NamUs partners with local law enforcement agencies to hold missing person days, where families can offer information about a missing loved one or provide DNA samples onsite. NIJ has not yet held a missing person day in a tribal community and would like the opportunity to do so.

### *NamUs in Tribal Communities*

***Dr. Steven Hafner, NamUs Research Assistant***

NamUs has done training with NIWRC and worked with the Indian Country Law Enforcement Section of the International Association of Chiefs of Police and NCAI to educate them about the system. NamUs is happy to visit any tribal community to provide education. Currently, they are adding data fields to help solve tribal cases, including asking about tribal affiliation of the victim and geographic indicators that will show if a person went missing or was found on tribal lands. NamUs is establishing a victim services unit in collaboration with OVC. A position that specifically works with tribes will become available within the unit.

OVW is partnering with the National Advocacy Center and Forensic Center of Excellence to create a new training series for law enforcement and medical providers on how to properly investigate violent crimes. Rather than requiring tribal law enforcement officers to travel to receive training, the training will be designed in multiple formats, including an online option, so that officers can access it without leaving the community. OVW will contact tribes soon to solicit their input on this project.

## Government-to-Government Interactive Session

OVW facilitated an interactive discussion period to promote true government-to-government dialogue. During the discussion period, DOJ, DOI, and HHS responded to tribal comments and questions. The questions, their corresponding responses, and any follow-up discussion are summarized below.

**Indian nations in P.L. 83-280 jurisdictions have been provided substantially lower amounts of support (or none at all) in the BIA compacting process for law enforcement and tribal courts than other Indian nations with concurrent federal jurisdiction. Consequently, tribes in P.L. 83-280 jurisdictions have had far fewer opportunities to develop their own police departments and court systems. How can tribes increase their compacts to include tribal courts and police departments, especially in P.L. 83-280 states?**

Eugenia Tyner-Dawson, Senior Policy Advisor and Assistant Secretary for Indian Affairs at DOI, responded that tribal leaders communicate their DOI budget priorities, including specific BIA budget priorities, through the Tribal-Interior Budget Council each year. The council meets quarterly, and delegates for each region present their priorities. Tribes should work with their regional representatives to request that they present this issue to the council.

In response, a tribal leader noted that bringing priorities to the Tribal-Interior Budget Council is only useful if DOI is willing to listen to the council's recommendations. Another tribal delegate asked where to find a list of regional representatives and records of their attendance at council meetings. Ms. Tyner-Dawson replied that NCAI records notes for every council meeting, and minutes for recent meetings are posted on the NCAI website<sup>2</sup>.

**IHS is mandated to work with preservation of sexual assault evidence and first response. Health aides in Alaska are prevented from collecting this evidence and are untrained on this process. Thus, the evidence often gets destroyed or goes stale. Sometimes, the health aide is the only person available to provide services for victims of sexual assault. How can we immediately change this practice?**

Erica Gourneau, IHS National Forensic Nurse Coordinator, responded that IHS can assist tribes and villages with coordination of training through the SAFESTAR program or the Tribal Forensic Health Care Program. IHS encourages full adoption of SAFESTAR, since it would enable trained laypersons to become qualified to collect and package evidence and then transfer it to law enforcement on behalf of the survivor. The trained layperson could then be recognized by a court as a fact witness and explain how they were trained, how the evidence was collected, and how they maintained the chain of custody. The evidence they collect could be admissible in court.

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<sup>2</sup> Meeting Materials section of the NCAI website: <http://www.ncai.org/initiatives/tibc/tibc-documents>

Ms. Sullivan added that another possible model is to employ a SANE nurse who, rather than working for a specific hospital, contracts with several hospitals to provide services. HHS and DOJ have worked together to compile a report on best practices for the preservation of forensic evidence on sexual assault and treatment of victims. They will share the report soon.<sup>3</sup>

A tribal delegate shared Hopi Tribe's solution to providing a SANE nurse. The tribe was part of a SANE pilot project, but there was high turnover among SANE nurses because of its remote location. So, the tribe worked with a telenursing SANE program based in Massachusetts, through which a SANE nurse could virtually guide a nurse through how to conduct an exam. Internet connection issues could pose a challenge to this approach in Alaska, but a similar program could support SANE nurses or SAFESTAR-certified people in conducting exams.

Several Alaska tribal representatives remarked that SAFESTAR faces major barriers to implementation in Alaska. While IHS may technically authorize local health aides to conduct exams, this approach is not practiced in Alaska. IHS and the compacted tribes, who control the health services in Alaska, do not cooperate with the villages in allowing health aides to conduct forensic exams. A representative of the Yup'ik Women's Coalition added that victims often must fly to Anchorage to receive services. They do not receive a stipend to cover meals or lodging during this travel. Meanwhile, the perpetrator continues to roam the village. She recommended allowing physician assistants in sub-regional clinics and village health aides to conduct exams.

Ms. Gourneau responded that physician assistants and health aides can become SANE certified for free at the IHS-funded website [tribalforensichealthcare.org](http://tribalforensichealthcare.org). Since IHS does not directly administer services in Alaska, they cannot mandate the policies of the compacted leadership group or the health care staff training. To ensure SANE services are available when hiring for future positions, she recommended adding this certification as a requirement for position descriptions.

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<sup>3</sup> This report was issued in October 2018 and is available on the OVW website: <https://www.justice.gov/ovw/page/file/1100476/download>.

**P.L. 92-544, through which states and federal agencies define their purposes for accessing federal databases, excludes tribes. CJIS cites this exclusion as the barrier to tribes receiving full, equal database access. Can the language of this statute be changed to enable tribes to access criminal databases in the same way state governments and federal agencies do?**

Tracy Toulou, Director of OTJ, replied that, by the end of this fiscal year, 47 tribes will have access to databases through TAP. Next year, approximately 25 more tribes will receive access. DOJ agrees that tribes should be included in P.L. 92-544. However, the voice of constituents is more influential than the voice of a federal agency.

In response, a tribal leader emphasized the importance of dedicated funding in making TAP sustainable and ensuring that all tribes, including those in P.L. 83-280 states, have access. Additionally, a technical assistance program would help tribes upload information to the national databases quickly and correctly.

**Washington state laws regarding people who are prohibited from gun ownership are more expansive than federal laws. Can the state enter prohibited people into the database, even if they are not prohibited by federal law?**

Mr. Toulou stated that a fix to include tribes in P.L. 92-544 would also enable tribes to define who has access to database records.

A tribal delegate emphasized the importance of contacting congressmen and senators to discuss the fixes and adequate funding that Indian Country urgently needs. Ron Parsons, U.S. Attorney for the District of South Dakota, noted that the Native American Issues Subcommittee presents the concerns of Indian Country to the U.S. attorneys, and, for South Dakota tribes, securing their involvement in TAP is a priority.

A tribal delegate requested that DOJ share an explanatory document with legislators to help them understand how tribal access to the databases works. There are varying levels of access, and tribes need complete access that is equal to that of states and federal agencies.

Another tribal delegate expressed concern about the implications of recent rhetoric among federal officials that perhaps tribal sovereignty can and should be curtailed. Such comments could translate into harmful policies. It is important that tribal leaders support one another and lobby on behalf of all tribes. People in Indian Country have suffered greatly. Perpetrators in Indian Country suffer from historical trauma, and they need help, too. Appropriate allocations are critical to helping tribes implement the federal programs intended to help them prevent and respond to violence. To honor the federal trust responsibility to tribes, funding for implementation of SDVCJ needs to become permanent. Once grant funds are no longer available, some tribes may be able to supplement with tribal funds, but many cannot. The federal government should reform the funding allocation process so programs serving Indian Country receive funds based on demonstrated need, rather than relying on competitive grants. Forcing tribes to compete interferes with tribes' ability to work together and advocate for one another.

**Alaska tribes need TTA regarding capacity-building, laws, and policies, which are very different in Alaska than those in the lower 48. What will DOJ, the Bureau of Justice Assistance, and HHS do to acknowledge this need and the differences that justify Alaska-specific TTA? What is the plan for fulfilling the trust responsibility?**

Kenya Fairley, Acting Director of FVPSA, responded that FVPSA will continue to fund and partner with the ANWRC and NIWRC to the greatest extent possible. Currently, the ANWRC has a 3-year cooperative agreement in place and the NIWRC is funded under a 5-year cooperative agreement. ANWRC provides culturally appropriate TTA to Alaska tribes and villages that focuses on domestic violence in Alaska. The federal project officer for ANWRC and NIWRC conducts site visits in Alaska and anticipates continuing these site visits to gain a deeper understanding of the unique needs of Alaska tribes. FVPSA will also continue to fund StrongHearts Native Helpline and work to help them expand their services and supports. Additionally, FVPSA funds the Southeast Alaska Regional Health Consortium and Cook Inlet Tribal Council as part of specialized services for families and children affected by domestic violence.

Ms. Moore added that, in 2017, OVW began offering an Alaska-specific workshop to help tribal grantees build capacity. This TTA offered the opportunity for OVW to work one-on-one with Alaska grantees and introduce grantees to each other. The DOJ National Indian Country Clearinghouse on Sexual Assault established an office in Alaska and set up SAFESTAR training specifically for Alaska. Additionally, DOJ is funding an Alaska-focused outreach initiative in partnership with the Tribal Law and Policy Institute. OVW has also funded an additional tribal coalition in response to concerns from Alaska tribal leaders. Darla Nolan is the point of contact in the OVW Tribal Affairs Division who can field questions regarding specific efforts in Alaska.

A tribal leader added that DOJ's National Indian Country Training Initiative has provided extensive training focused on Alaska tribes.

Selina Keryte, Public Health Analyst for IHS, noted that the IHS domestic violence prevention initiative has 13 grantees in Alaska, 11 of whom focus on domestic and sexual violence prevention and advocacy, while the other 2 focus on forensic health care services.

**Can grant managers visit sites more often? We request that the department heads set aside time to visit and learn about the areas they serve.**

Ms. Sullivan shared her experience visiting the Acoma Pueblo and spending one-on-one time with tribal leaders. She felt it helped her understand who they are and learn more about their culture. Visiting Indian Country is a priority. She encouraged the tribal delegates to invite OVW to events or meetings.

Ms. Fairley added that FVPSA has a small site visit budget and makes their best effort to consistently visit both tribes and states. She also encouraged tribal delegates to extend invitations to community events or conferences.

Ms. Tyner-Dawson added that the BIA Victims Assistance Program also has staff on the ground working with Indian Country. The program employs 14 victim assistance specialists in the field who specifically assist Indian Country. For example, they accompany victims to court and refer them to shelters and other services.

**What can you do to honor tribal protection and exclusion orders? Will you hold states and counties responsible for ignoring them?**

Mr. Toulou responded that federal statutes require full faith and credit for protection orders, including tribal court orders of protection, but there is no direct statutory provision regarding tribal exclusion orders. Congress is working on amendments to TLOA. We have been working with them on a trespass provision that would provide for potential federal prosecution of trespassing. Exclusion orders that meet certain criteria could be federally prosecuted under this provision. DOJ is willing to reach out to the states in question regarding full faith and credit for protection orders.

Nadine Neufville, Deputy Director for Grant Development and Management at OVW, encouraged tribal leaders to apply as peer reviewers for OVW programs. OVW needs peer reviewers who have tribal expertise to help grant programs incorporate an understanding of unique tribal needs and challenges.

A tribal leader inquired about the possibility of withholding state STOP funding if the state does not honor tribal court orders. Jennifer Kaplan, General Counsel at OVW, responded that, absent a statutory change, OVW cannot use STOP funding as leverage for enforcement of full faith and credit. However, OVW has been working with state attorney generals to educate them about the federal law stating that they must accord tribal protection orders full faith and credit.

## Appendix 1: Consultation Participants

## Tribal Leaders or Delegates

<b>Name</b>	<b>Title</b>	<b>Organization</b>
Edward Adams	President	Native Village of Nunam Iqua
Dellis M. Agard	Tribal Court Administrator	Standing Rock Sioux Tribe
Jacqueline Agtuga	Law and Policy Consultant	National Indigenous Women's Resource Center
Gary Alchesay	Councilman	White Mountain Apache Tribe
Nadine Anderson	Domestic Violence Liaison	White Mountain Apache Tribe
Felicia Antone	Technology/Information Specialist	Southwest Center for Law and Policy, National Indian Country Clearinghouse on Sexual Assault
Beatriz Arakawa	Domestic Violence / Sexual Assault Family Advocate	Lower Elwha Klallam Tribe
Charon Asetoyer	CEO	Native American Community Board
Tammy Ashley	Director of Operations	Alaska Native Justice Center
Bernadine Atchison	Vice Chairwoman	Kenaitze Indian Tribe
James Baca	Tribal Sheriff	Santa Clara Pueblo
Dianne Barker-Harold	Attorney, Indian Country & Crime Victim Specialist, Training Consultant, and Advisory Committee Member	Cherokee Nation Victim Task Force and Attorney General
Larry Bear Killer	Oglala Sioux Housing	Oglala Sioux Tribe
Lydia Bear Killer	Tribal Council	Oglala Sioux Tribe
Imogene Belgarde	Director	Spirit Lake Tribe Victim Assistance Program
Kim Benally	Training and Development Manager	Coalition to Stop Violence Against Native Women
Arlana Bettelyoun	Executive Director	Oglala Sioux Tribe
Kristi Bietz	Trustee I	Flandreau Santee Sioux Tribe
Darla Black	Vice President	Oglala Sioux Tribe
Donna Brown	Outreach Coordinator	Wabanaki Women's Coalition
Robyn Burlingham	Tribal Council Coordinator	Nottawaseppi Huron Band of the Potawatomi
Diane Cabrera	Prosecuting Attorney	Lower Elwha Klallam Tribe
Kasey Cadwell	Shelter/Education Coordinator	Wiconi Wawokiya, Inc.
Bennae Calac	President	Strong Hearted Native Women's Coalition
Rachel Carr	Executive Director	Uniting Three Fires Against Violence
Frances Charles	Chairwoman	Lower Elwha Klallam Tribe
Michael Chavarria	Governor	Santa Clara Pueblo
Florence Choyou	Board Treasurer	Hopi Tribe
Bonnie Clairmont	Victim Advocacy Program Specialist	Ho-chunk Nation
Kimmie Clausen	Executive Director	Wild Horse Butte Community Development Corporation
Monica Coriz	Victim Advocate	Santo Domingo Pueblo
Michelle Demmert	Chief Justice	Central Council of Tlingit and Haida Indian Tribes of Alaska

<b>Name</b>	<b>Title</b>	<b>Organization</b>
Cathy Devers	COO	Pauma Band of Mission Indians
Charmaine Devers	Board Member	Strong Hearted Native Women's Coalition
Shawna Duch	Administrative Operations Manager	Cherokee Nation, ONE FIRE Victim Services
Shaun Eastman	Attorney	Sissteton Whapeton Oyate
Catherine Edwards	6th Vice President	Central Council of Tlingit and Haida Indian Tribes of Alaska
Lacy End-Of-Horn	Tribal Prosecutor	Cheyenne River Sioux Tribe
Gwynne Evans-Lomayesva	Researcher	National Congress of American Indian
Alyxis Feltus	Tribal Domestic Violence Coalition Director	Mending the Sacred Hoop Coalition
Yolanda Francisco-Nez	Executive Director	Restoring Ancestral Winds
Jamie Friedel	Tribal Councilor	Little River Band of Ottawa Indians
Gloria George	Tribal Council Member	Asa'carsarmiut Tribe
LaTisha Gilmore	Research Specialist	Southwest Center for Law and Policy, National Indian Country Clearinghouse on Sexual Assault
Matthew Gordon	Tribal Advocate	
Char Green-Maximo	Research Assistant	Fort Peck Assiniboine and Sioux Tribes
Leanne Guy	Executive Director	Southwest Indigenous Women's Coalition
Tania Harvey	Program Specialist	Southwest Indigenous Women's Coalition
Lisa Heth	Executive Director	Wiconi Wawokiya, Inc.
Lenora Hootch	Executive Director	Yup'ik Women's Coalition
Jacqueline Ice	Female Domestic Violence Advocate	Oglala Sioux Tribe
Calvin Jilot	Tribal Council	Chippewa Cree Tribe
Audrey Jim	Domestic Abuse Manager	Shoshone-Bannock Tribes
Pamela Johnson	Executive Director	American Indians Against Abuse Tribal Coalition
Paula Julian	Policy Specialist	National Indigenous Women's Resource Center
Lori Jump	Assistant Director	StrongHearts Native Helpline
Priscilla Kameroff	Public Policy Education Specialist	Yup'ik Women's Coalition
Stacia Kane	Domestic Violence Case Manager	White Mountain Apache Tribe
Rod Kaskalla	Domestic Violence Prevention Coordinator	Nambe Pueblo
Stella Kay	Tribal Vice Chairperson	Little Traverse Bay Bands of Odawa Indians
Kelbie Kennedy	Policy Counsel	National Congress of American Indians

<b>Name</b>	<b>Title</b>	<b>Organization</b>
Carole Lankford	Tribal Council Representative	Confederated Salish and Kootenai Tribes
Samantha Larson	Sexual Assault Advocate	Saint Croix Chippewa Indians of Wisconsin
Lucy Laughter-Begay	Program Manager II	Navajo Nation Strengthening Families Program
Keely Linton	Executive Director	Strong Hearted Native Women's Coalition
Diane Lonn	Tribal Councilor	Little River Band of Ottawa Indians
Marlene Mack	Program Manager	Alaska Native Justice Center
Juana Majel-Dixon	Legislative Councilwoman	Pauma Band of Mission Indians
Nicole Matthews	Executive Director	Minnesota Indian Women's Sexual Assault Coalition
Jodie McAdams	Tribal Council	Eastern Shoshone Tribe
Patti McClure	Domestic Violence Victims Advocate	Nottawaseppi Huron Band of the Potawatomi Tribal Court
Ada Melton	DMS	Pueblo of Jemez
Kay Mopope	Social Services Director	Kiowa Tribe
Margaret Morrison	Advocate	Rosebud Sioux Tribe
Catherine Moses	Tribal Administrator	Asa'carsamiut Tribe of Mountain Village
Shirley Moses	Executive Director	Healing Native Hearts Coalition
Charlene Naulty	Director	Pribilof Islands Aleut Community of St. Paul Island
Karen Nelson	Board Member	Strong Hearted Native Women's Coalition
Leah Niccolocci	Behavioral Health Director	Confederated Tribes of the Chehalis Reservation
Christine Nobiss	Director of Land and Body Sovereignty Project	George Gordon Plains Cree/Saulteaux First Nation
Kateri OKeefe	Advocate	Minnesota Indigenous Women's Society, Lower Sioux Community
Carey Onsaе	Executive Director	Hopi-Tewa Women's Coalition to End Abuse
Deleana Other Bull	Executive Director	Coalition to Stop Violence Against Native Women
Lois Owens	Council Member	Sisseton Wahpeton Oyate
Carlos Pacheco	Pueblo Court Prosecutor	Pueblo of Laguna
Traci Paetzel	Domestic Violence/Sexual Assault Manager	Saint Croix Chippewa Indians of Wisconsin
Nom Ki Wash Potts	Youth	Prairie Band Potawatomi Nation
Rose Quilt	Director of Policy and Research	National Indigenous Women's Resource Center
Tony Reider	President	Flandreau Santee Sioux Tribe
Maria Reynoso Tello	Executive Secretary	Oglala Sioux Tribe

<b>Name</b>	<b>Title</b>	<b>Organization</b>
Ana Romero	Grant Manager/Transitional Housing	Eight Northern Indian Pueblos Council, Inc.
Jane Root	Executive Director	Wabanaki Women's Coalition
Shiela Ross	Preschool Teacher	Standing Rock Sioux Tribe
Dorma Sahneyah	Training and Technical Assistance Director	National Indigenous Women's Resource Center
Rachel Samuel	Victim Advocate	Santo Domingo Pueblo
Kirk Saunooke	Chief Justice	Eastern Band of Cherokee Indians Supreme Court
Roxanne Sazue	Tribal Representative	Crow Creek Sioux Tribe
Melody Sees	Board Member	Strong Hearted Native Women's Coalition
Kendra Smith	Wind River SORNA Director	Northern Arapaho and Eastern Shoshone Tribes
James Snow	Tribal Council	Winnebago Tribe of Nebraska
Karen Snyder	Council Member	Eastern Shoshone Tribe
Faith Spotted Eagle	Ihanktonwan Tribal Chair	Yankton Sioux Tribe
Catherine St. John	Tribal Councilwoman	Houlton Band of Maliseet Indians
Chelsea Summers	Advocate	Standing Rock Sioux Tribe
Amanda Takes War Bonnett	Public Education Specialist	Native Women's Society of the Great Plains, Oglala Sioux Tribe
Lorene Thomas	Domestic Violence/Sexual Assault Program Director	Winnebago Domestic Violence Intervention Program
Tami Truett Jerue	Executive Director	Alaska Native Women's Resource Center
Charlene Tsoodle-Marcus	PeaceKeepers Program Director	Eight Northern Indian Pueblos Council, Inc.
Duanan Twobulls	Administrative Assistant	Oglala Sioux Tribe
Gil Vigil	Executive Director	Eight Northern Indian Pueblos Council, Inc.
Lydia Werito	Secretary	Hopi Tribe Domestic Violence Program
Henry Williams	Law Clerk	Hannahville Indian Community
Michael Williams	Tribal Council	Akiak Native Community
Jessica Young Bird	Manager, Sacred Plume Women's Shelter	Standing Rock Sioux Tribe
Maude Yoyhoeoma	Director	Hopi Tribe Domestic Violence Program
Larry Yupanik	Tribal Council Member	Emmonak Village
Kim Zahne	Director of Training & Technical Assistance	Hopi-Tewa Women's Coalition to End Abuse

## Federal and State Representatives

<b>Name</b>	<b>Title</b>	<b>Organization</b>
Rebecca Anderson	Executive Assistant	U.S. Attorney's Office
Annie Beamon	Grant Program Specialist	DOJ COPS
Tia Bowman	COR	OVW
C. Rae Burnette	Health Systems Specialist	IHS
Frances Cook	Attorney Advisor	OVW
Michael Costigan	Senior Advisor to the Assistant Attorney General	DOJ OJP
Christine "Tina" Crossland	Senior Social Science Analyst	DOJ OJP NIJ
Jeremy Edwards	Public Affairs Specialist	DOJ
Kenya Fairley	Acting Director	HHS Family Violence Prevention & Services Act Program
Angela Fallon	Deputy Director	IHS Office of Clinical and Preventive Services
Tia Farmer	Program Specialist	OVW
Erica Gourneau	National Forensic Nurse Coordinator	IHS
A. Elizabeth Griffith	Associate Deputy Director	DOJ Bureau of Justice Assistance
Steven Hafner	Research Assistant	DOJ NIJ
Nikia Johnson	Senior Communications Specialist	OVW
Rebekah Jones	Grant Program Specialist	OVW Tribal Affairs Division
Jennifer Kaplan	General Counsel	OVW
Phil Keith	Director	COPS
Selina Keryte	Public Health Analyst	Navajo IHS
Melissa Lee	Tribal Court Assessment Specialist	BIA
Amy Loder	Associate Director	OVW
Nancy Mautone-Smith	Deputy Director	HHS Health Resources and Services Administration Office of Women's Health
Sherriann Moore	Deputy Director of Tribal Affairs	OVW
Clare Morell	Special Assistant to the Director	OVW
Troy Morley	U.S. Attorney/Tribal Liaison	U.S. Attorney's Office, District of South Dakota
Nadine Neufville	Deputy Director, Grant Development and Management	OVW
Ronald Parsons	U.S. Attorney	U.S. Attorney's Office, District of South Dakota
Shira Phelps	VAWA Grants Administrator	Wisconsin Department of Justice Office of Crime Victim Services
Stephanie Pierson	Program Manager	South Dakota Department of Public Safety
Gabriel Ritter	Summer Intern	OVW
Darla Sims	Grants Management Team Lead	OVW Tribal Affairs Division
James Smith	Grant Program Manager	OVW Tribal Affairs Division

<b>Name</b>	<b>Title</b>	<b>Organization</b>
Bobbie “B.J.” Spamer	Director	NamUs, University of North Texas Health Science Center
Howard Spivak	Principal Deputy Director	DOJ OJP NIJ
Debra Stoe	Physical Scientist	DOJ OJP NIJ
Katharine Sullivan	Acting Director	OVW
Paule Tessier	Program Specialist, Culturally Specific Services Program	OVW
Tracy Toulou	Director	DOJ Office of Tribal Justice
Simona Toya	Staff Assistant	BIA
Eugenia Tyner-Dawson	Senior Policy Advisor, Assistant Secretary—Indian Affairs	DOI
Sandi Van Orden	Grant Program Specialist	OVW
Danielle Weiss	Consultant	NIJ
Trevor Whetstone	Senior Policy Advisor	DOJ OJP Office of the Assistant Attorney General
Shena Williams	Senior Program Specialist	HHS Family Violence Prevention & Services Act Program
Merry Wills	VAWA STOP Federal Aid Administrator	Nebraska Crime Commission

## Other Attendees

<b>Name</b>	<b>Title</b>	<b>Organization</b>
Nicole Bearheels	Interim Administrative Co-Director	South Dakota Coalition Ending Domestic and Sexual Violence
Jordan Catlett	Cultural Outreach Specialist	South Dakota Network Against Family Violence and Sexual Assault
Emily Davenport	Vice President	Northwest Strategies
Arielle Deutsch	Researcher	Sanford Health
Willetta Dolphus	Interim Native Co-Director	South Dakota Coalition Ending Domestic and Sexual Violence
Ashley Dwyer	Sexual Violence Project Specialist	South Dakota Network Against Family Violence and Sexual Assault
Theresa Grant	Senior Research Consultant	GoodHealth TV
Donald Loudner	National Commander	National American Indian Veterans
Rebecca Lustfield	Researcher	Sanford Health
Karl Potts	General Manager	Kijik Corporation
Daniel Ritter	Partner	K & L Gates
Dawn Stover	Executive Director	Native Alliance Against Violence
Winona Washburn	Sexual Assault Advocate/Coordinator	Sacred Heart Center
Jeffrey White	Principal	Booz Allen Hamilton
Raven Word	Communication Specialist	Native Alliance Against Violence

## Appendix 2: Consultation Agenda



## TRIBAL CONSULTATION ON VIOLENCE AGAINST AMERICAN INDIAN & ALASKA NATIVE WOMEN

SHERATON SIOUX FALLS & CONFERENCE CENTER  
SIOUX FALLS, SD

### Mon., Aug. 20, 2018

4:30 p.m. – 5:00 p.m.

#### **FEDERAL STAFF MEETING**

Meeting location in the Sheraton Sioux Falls Hotel (Fontenelle A).

6:30 p.m. – 8:00 p.m.

#### **TRIBAL CAUCUS MEETING**

Hosted by NCAI and NIWRC, Inc. —Located in the Sheraton Hotel (Fontenelle B).

Pre-registration is offered during this time.

### Tues., Aug. 21, 2018

7:30 a.m. – 8:30 a.m.

#### **REGISTRATION**

Located in the Exhibit Hall 1 foyer of the Sioux Falls Convention Center.

8:30 a.m. – 9:00 a.m.

#### **CALL TO ORDER**

Sherriann Moore (Rosebud Sicangu' Lakota), Deputy Director of Tribal Affairs, Office on Violence Against Women (OVW), U.S. Department of Justice (DOJ)

#### **HONOR GUARD**

Gordon Weston Veterans Post #6597, staffed by Wilbur "Randy" Bernard. Eagle Staff, presented by Dennis Quigley (Sioux Falls Akicita)

#### **TRADITIONAL OPENING/HOST DRUM**

Roxanne Sazue, Crow Creek Sioux Tribe

Drum presented by "Rising Hail," led by Allen Hare, Yankton Sioux Tribe

#### **SHAWL CEREMONY**

Native Women's Society of the Great Plains:

Carmen O'Leary, Executive Director, and Board Members:

Sadie Young Bird, NWS Chair, Three Affiliated Tribes of North Dakota

Lorene Thomas, NWS Vice-Chair, Winnebago Tribe of Nebraska

Beth O'Keefe, NWS Secretary, Lower Sioux Tribe, Minnesota

Kimmie Clausen, NWS Treasurer, Oglala Sioux Tribe, South Dakota

9:00 a.m. – 9:20 a.m.

#### **OPENING REMARKS**

The Honorable Darla Black, Vice President, Oglala Sioux Tribe

Katharine T. Sullivan, Acting Director, Office on Violence Against Women, U.S. Department of Justice



## Tues., Aug. 21, 2018

The Honorable Jesse Panuccio, Acting Associate Attorney General, U.S. Department of Justice

9:20 a.m. – 9:30 a.m.

### **TRIBAL CONSULTATION LOGISTICS**

Sherriann Moore (Rosebud Sicangu' Lakota)  
Deputy Director of Tribal Affairs, OVW, DOJ

Eugenia (Gena) Tyner-Dawson (Sac and Fox Nation)

Senior Policy Advisor, Assistant Secretary—Indian Affairs, Office of the Secretary, U.S. Department of the Interior

9:30 a.m. – 10:30 a.m.

### **GOVERNMENT-TO-GOVERNMENT CONSULTATION TRIBAL LEADER TESTIMONY**

10:30 a.m. – 10:45 a.m.

### **BREAK**

10:45 a.m. – 12:00 p.m.

### **TRIBAL LEADER TESTIMONY (CONT.)**

12:00 p.m. – 1:00 p.m.

### **WORKING LUNCH—TRIBAL LEADER TESTIMONY (CONT.)**

1:00 p.m. – 2:45 p.m.

### **TRIBAL LEADER TESTIMONY (CONT.)**

2:45 p.m. – 3:00 p.m.

### **BREAK**

3:00 p.m. – 5:00 p.m.

### **TRIBAL LEADER TESTIMONY (CONT.)**

8:00 p.m. – 9:00 p.m.

### **MISSING & MURDERED INDIGENOUS WOMEN VIGIL (Non-Federal)**

Hosted by the Native Women's Society of the Great Plains and other tribal coalitions.

Located in the Sioux Falls Convention Center (Grand Ballroom).

**\*Red Attire Encouraged**

## Wed., Aug. 22, 2018

8:00 a.m. – 10:15 a.m.

### **GOVERNMENT-TO-GOVERNMENT CONSULTATION TRIBAL LEADER TESTIMONY**

10:15 a.m. – 10:30 a.m.

### **BREAK**

10:30 a.m. – 12:00 p.m.

### **TRIBAL LEADER TESTIMONY (CONT.)**



**Wed., Aug. 22, 2018**

12:00 p.m. – 1:00 p.m.

**WORKING DOJ LUNCH PRESENTATION**

National Institute of Justice- A National Baseline Study:  
“NIJ’s Research Initiatives and Programs Addressing Crime and  
Victimization in Indian Country and Alaska”

Christine “Tina” Crossland, Senior Social Science Analyst, Office of  
Research and Evaluation, National Institute of Justice, DOJ

Charles “Chuck” Heurich, Senior Physical Scientist, Office of Investigative  
and Forensic Sciences, National Institute of Justice

Danielle M. Weiss, Lead Associate, Office of Investigative and Forensic  
Sciences, (Booz Allen Hamilton contractor)

Steven Hafner, Research Associate, Office of Research and Evaluation  
(Harvard University contractor)

1:00 p.m. – 4:30 p.m.

**GOVERNMENT-TO-GOVERNMENT INTERACTIVE SESSION**

Tribal and Federal Leadership open discussion and Q&A session.

4:30 p.m.

**TRADITIONAL CLOSING**

Carmen O’Leary, Executive Director, Native Women’s Society  
Gordon Weston Veterans Post #6597-Akicita  
Roxanne Sazue, Crow Creek Sioux Tribe

## Appendix 3: Consultation Framing Paper

**Consultation Question 1: How can the Office on Violence Against Women (OVW) improve its administration of its Grants to Tribal Governments to Exercise Special domestic violence criminal jurisdiction (Tribal Jurisdiction) Program to encourage more tribes to apply for funding?**

**Consultation Question 2: How should OVW expend the unobligated \$1.6 million in FY 2018 funding for the Tribal Jurisdiction Program?**

## Background

Section 904 of Violence Against Women Reauthorization Act of 2013 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. This provision also created a grant program for tribal governments or their designees to: 1) strengthen tribal criminal justice systems to assist tribes in exercising SDVCJ, including law enforcement, prosecution, trial and appellate courts, probation systems, detention and correctional facilities, alternative rehabilitation centers, culturally appropriate services and assistance for victims and their families, and criminal codes and rules of criminal procedure, appellate procedure, and evidence; 2) provide indigent criminal defendants with the effective assistance of licensed defense counsel, at no cost to the defendant in SDVCJ cases; 3) ensure that, in SDVCJ cases, jurors are summoned, selected, and instructed in a manner consistent with all applicable requirements; and 4) accord victims of domestic violence, dating violence, and violations of protection orders rights that are similar to the rights of a crime victim described in Section 3771(a) of Title 18, consistent with tribal law and custom.

Since enactment of VAWA 2013, at least 50 tribes have shown a strong interest in learning about and potentially exercising SDVCJ. In June of 2013, the Department of Justice 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, approximately 50 tribes have voluntarily joined the ITWG, and almost all of them have remained actively engaged in ITWG meetings, webinars, and exchanges of information. Moreover, to date, 21 tribes (only some of which are ITWG members) have reported to the National Congress of American Indians that they have implemented SDVCJ.

Tribal interest in Department funding to support the implementation and exercise of SDVCJ, however, has not been robust:

- In January 2016, OVW received its first appropriation of \$2.5 million to implement the Grants to Tribal Governments to Exercise Special domestic violence criminal jurisdiction (Tribal Jurisdiction) Program. OVW posted a solicitation in May 2016, received 10 applications, and made awards to seven tribes.
- In FY 2017, OVW received an appropriation of \$4 million for the Tribal Jurisdiction Program. OVW posted a solicitation for the program in December 2016, but so few applications were received that OVW re-posted the solicitation in March 2017. Between these two solicitations, OVW received seven applications and offered funding to all seven. One tribe did not accept the award, resulting in \$495,000 being returned to the program.



- In FY 2018, OVW again received an appropriation of \$4 million for the program, posted a solicitation in April 2018, received six applications, and anticipates funding all six. As a result, OVW will end FY 2018 with approximately \$1.6 million in unobligated and otherwise available Tribal Jurisdiction Program funds.

## Questions

### **Consultation Question 1: How can the Office on Violence Against Women (OVW) improve its administration of its Grants to Tribal Governments to Exercise Special domestic violence criminal jurisdiction (Tribal Jurisdiction) Program to encourage more tribes to apply for funding?**

The Department's first question for tribal leaders is how OVW can change its administration of the Tribal Jurisdiction Program to make it more attractive to tribal applicants. In FY 2017, when OVW posted two separate solicitations, tribes told the Office that the issue was that the first solicitation had been open at the same time as the Consolidated Tribal Assistance Solicitation (CTAS), making it difficult for tribes to develop multiple applications. In FY 2018, OVW was careful not to repeat that mistake, posting the Tribal Jurisdiction solicitation well after CTAS had closed. Nonetheless, OVW received a disappointing number of applications. Are there solicitation requirements that are deterring tribes from applying? Should the solicitation be open for longer than six weeks (which is usual for an OVW grant solicitation)? Are there other barriers to SDVCJ implementation that OVW could address through the Tribal Jurisdiction Program funding?

### **Consultation Question 2: How should OVW expend the unused \$1.6 million in FY 2018 funding for the Tribal Jurisdiction Program?**

By law, the Department is limited in its ability to use appropriated funds for any purpose other than the one designated by Congress in an appropriations act. Therefore, OVW cannot use most of the \$1.6 million in unobligated (or unspent) Tribal Jurisdiction Program funds for another purpose without submitting a "reprogramming notice" to Congress.<sup>1</sup> This leaves OVW with limited options for how to expend these funds, which include:

- Re-issue another Tribal Jurisdiction Program solicitation in early FY 2019. This would result in FY 2019 awards.
- Re-purpose the funding for use for an existing OVW tribal program or initiative, such as:
  - Violence Against Women Tribal Special Assistant United States Attorneys (SAUSAs) Project (funding tribal prosecutors to work in collaboration with U.S. Attorneys' Offices to prosecute cases involving domestic violence, dating violence, sexual assault, and stalking in Indian country)
  - Training and technical assistance for tribal personnel
  - Tribal Governments Program
  - If this approach is taken, OVW would provide the House and Senate Committees on Appropriations with a re-programming notice. This would result in FY 2019 awards.
- Reprogram \$400,000 to another tribal program (which would not require Congressional notice) but use the remaining \$1.2 million in one of the ways indicated above. Some funding might issue early in FY 2019 and some later.

The Department welcomes any other suggestions that may be permitted by law.

UNITED STATES DEPARTMENT OF JUSTICE  
Office on Violence Against Women  
2018 Tribal Consultation

