

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

The Eighth Annual Government-to-Government Violence Against Women Tribal Consultation (Eighth Annual VAW Tribal Consultation or 2013 consultation) was held in Washington, D.C., on November 14, 2013. Representatives from across Indian country participated in this important event to share their recommendations and concerns regarding violence against American Indian and Alaska Native women, and submitted written recommendations on how the Department of Justice (DOJ) and other federal agencies can improve the United States government response to violence against Indian women. Section 903 of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) requires an annual report to Congress on DOJ's annual violence against women tribal consultation that (1) contains Indian tribes' recommendations, (2) describes actions taken to respond to the recommendations, and (3) describes how the Attorney General will work in coordination and collaboration with Indian tribes, the Secretary of Health and Human Services, and the Secretary of the Interior to address the recommendations. *See* 42 U.S.C. 14045d(c).

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

- *U.S. Department of Justice, Office on Violence Against Women, 2013 Tribal Consultation Report:* This report describes the comments and recommendations received from tribal leaders at the 2013 consultation and during the subsequent comment period.
- *2014 Update on the Status of Tribal Consultation Recommendations:* This report provides a comprehensive update on activities undertaken during Fiscal Year 2014 to respond to recommendations made during the 2013 consultation, implement tribal provisions of the Violence Against Women Act, and address violence against Native women. This Update was sent to tribal leaders in preparation for the Ninth Annual VAW Tribal Consultation, which was held on October 15, 2014 in Rapid City, South Dakota.
- *Report to Congress on the Eighth Annual Government-to-Government Violence Against Women Tribal Consultation: Section III, Coordination and Collaboration:* Although the 2014 Update includes actions taken in coordination and collaboration with Indian tribes and other federal agencies, Section III provides additional details and information on ongoing coordination and collaboration.

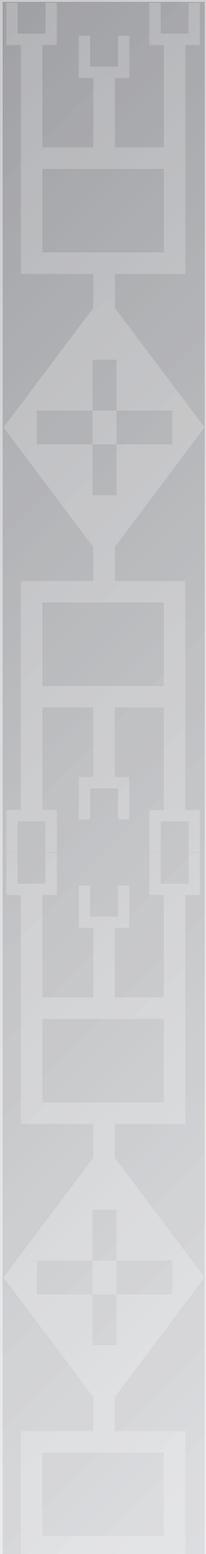
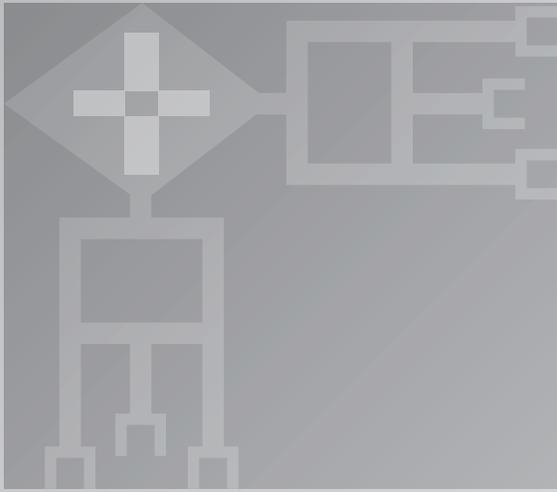
U.S. DEPARTMENT OF JUSTICE  
OFFICE ON VIOLENCE AGAINST WOMEN

# 2013 TRIBAL CONSULTATION

REPORT



*Working Together to End the Violence*





# CONTENTS

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<b>Introduction and Background</b> .....	<b>1</b>
Government-to-Government Consultation Event. ....	1
Welcome and Introductory Activities. ....	1
Federal Opening Remarks .....	3
Update From the Last Consultation .....	3
Consultation Questions from DOJ .....	4
Introduction of Federal Partners. ....	8
Tribal Leader Testimony .....	8
Tribal Representatives' Oral Testimony .....	8
Closing and Adjournment .....	51
Written Testimony Received. ....	51
<b>Appendices</b> .....	<b>69</b>
Appendix 1: Consultation Participants .....	70
Tribal Representatives .....	70
Federal Representatives .....	76
Appendix 2: Consultation Agenda .....	79







## **INTRODUCTION AND BACKGROUND**

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The passage of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) made 2013 a historic year in the prevention and redress of violence against Native American women. Programs and protections for tribal governments and citizens initiated in previous versions of VAWA (1994, 2000, and 2005) were retained, and, in some cases, expanded.

Since VAWA 2005, Title IX Section 903 of the act has mandated that the Attorney General conduct annual consultations with Indian tribal governments about the administration of VAWA's tribal funds and programs. Three general topics are identified for consultation, and the Attorney General and federal partners are directed to solicit recommendations from Indian tribes concerning the following:

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

## **GOVERNMENT-TO-GOVERNMENT CONSULTATION EVENT**

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The annual Government-to-Government Violence Against Women Consultation was held on November 14, 2013, at the Office of Justice Programs offices in Washington, DC. Originally scheduled for October 31, 2013, in Bismarck, ND, the consultation event was rescheduled to a new date and location as a result of the lapse in funding for the federal government.<sup>1</sup> The event in Washington, DC, was planned to follow the 2013 White House Tribal Nations Conference, which occurred on November 12 and 13, 2013.

### **Welcome and Introductory Activities**

Lorraine Edmo (Shoshone-Bannock), Deputy Director for Tribal Affairs in the Office of Violence Against Women (OVW), welcomed the assembled attendees to the Eighth Annual Violence Against Women Government-to-Government Consultation.

Ms. Edmo introduced Dennis Zotigh (Ohkay Owingeh, Kiowa, Dakota), museum cultural specialist at the National Museum of the American Indian and renowned traditional singer. Mr. Zotigh sang a Flag Song to honor the sovereignty of all nations attending the consultation.

A traditional opening was provided by Jerry Cordova (Pueblo of Taos), Native American Coordinator for the Bureau of Land Management in Washington, DC.

The Shawl Ceremony was led by Juana Majel (Pauma Band of Luiseño Indians) and performed by tribal advocates, many of whom were OVW technical assistance providers

<sup>1</sup> The lapse in funding for the federal government took place from October 1 to October 16, 2013.



and councilwomen from across the United States. Ms. Majel sang a traditional song and the women placed traditional shawls on chairs at the center of the room. The empty chairs and the shawls honored murdered and missing women, survivors of domestic and dating violence, survivors of sexual assault, and men who are victims and survivors.

### **Welcoming Remarks**

Ms. Edmo introduced a tribal representative and a federal representative who both offered welcoming remarks to open the government-to-government consultation.

#### ***Brian Cladoosby, President of the National Congress of American Indians***

Brian Cladoosby (Swinomish), the newly elected President of the National Congress of American Indians (NCAI), acknowledged the tribal chairs and tribal leaders present in the room and reminded them of their responsibility to protect women, children, and the unborn.

He recognized 2013 as a historic year, with the successful passage of VAWA 2013, and reminded the group that, despite the occasion for celebration, the important work that remains is “implementation, implementation, implementation.” Successful implementation, he explained, will require significant and ongoing discussion and coordination between federal and tribal governments, much like the activities of today’s government-to-government consultation.

#### ***Tony West, Acting Associate Attorney General, DOJ***

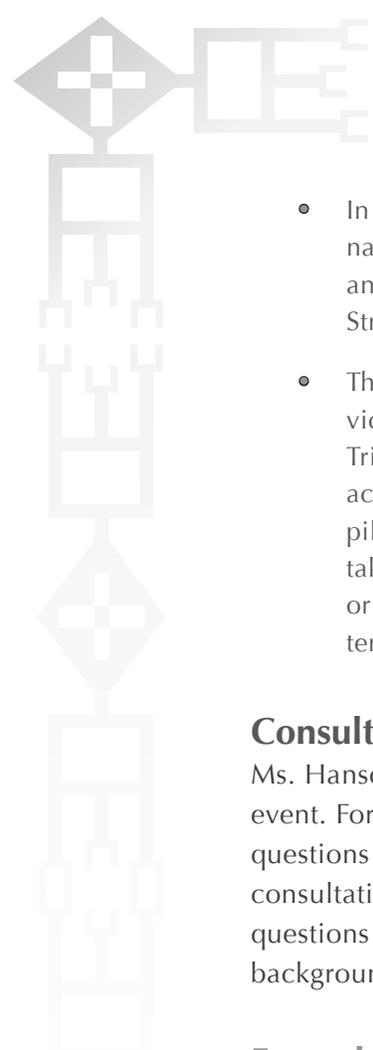
Tony West, the Acting Associate Attorney General, recognized the many DOJ officials present and those who had contributed to the planning and execution of the consultation event. He also welcomed tribal leaders and thanked them for making the trip to Washington, DC, to participate in the consultation.

He recalled a previous gathering between DOJ officials and tribal leaders in December 2012, when the reauthorization of VAWA seemed unlikely, and it seemed even more unlikely that the new protections for tribal citizens in VAWA 2013 would be retained. Compared to that time, and thanks in large part to efforts by tribal nations, many steps forward have been taken.

In particular, Mr. West reported, DOJ is moving forward on pilot projects for selected tribes to begin exercising special domestic violence criminal jurisdiction to prosecute non-Indian domestic violence offenders, as authorized by VAWA 2013. Thirty-nine tribes have been part of an intertribal working group for consultation with DOJ on how these pilot projects should be implemented. In 2014, tribes will begin prosecuting non-Indian offenders.

This authority is a substantial gain for tribal sovereignty. Although the passage and implementation of VAWA 2013 is only one step in the long journey of reducing violence against women, Mr. West affirmed that DOJ resolves to use every tool at their disposal to work in partnership with tribes to reduce the number of victims and to strengthen tribal capacity to respond to violence and crime.



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- In January 2013, as a part of the National Indian Country Training Initiative, the first-ever national Indian Country training was held on the prosecution of non-fatal strangulation and suffocation offenses. The training was held in partnership with the National Strangulation Training Institute.
  - The federal advisory committee on the development of a research program to study violence against American Indian and Alaska Native (AI/AN) women (the Section 904 Tribal Task Force) has continued advising the National Institute of Justice (NIJ) on research activities. With the task force's input, NIJ completed the Violence Against Indian Women pilot study in early 2012 and moved on to conduct the national baseline study that will take place over 4 years (from 2012 to 2016). The advisory committee will meet in spring or summer of 2014. Nominations for new members are requested, as current members' terms on the task force will conclude in August 2014.

### **Consultation Questions from DOJ**

Ms. Hanson went on to introduce the consultation topics that DOJ had identified for this event. For each topic identified, DOJ provided a framing paper that stated the consultation questions and provided background information on the issue. There were four specific consultation topics that DOJ addressed in framing papers. In the sections below, consultation questions identified by DOJ are included in a bulleted list under each topic, along with background information from DOJ's framing papers.

### **Formula Distribution for the Grants to Tribal Governments Program**

- Should OVW shift from a competitive, discretionary model for distributing tribal grant funds to an annual formula distribution? If so, what should the formula for distribution look like and how should OVW make this determination?

Since its implementation in 2007, OVW's Grants to Tribal Governments Program (GTGP) has distributed funds on a competitive, discretionary basis. This program is OVW's main source of funding to tribes, and it supports efforts to decrease violence against women and to increase tribal capacity for legal responses and victim services. In contrast, OVW's primary funding to states through the STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Grant Program is awarded on a formula basis. The Family Violence Prevention Services Agency (FVPSA) in the Department of Health and Human Services also uses formula distribution.

In response to tribal requests to consider formula distribution, the framing paper offered five hypothetical formulas for reference and discussion, and various considerations for selecting certain formula guidelines. For example, one of OVW's considerations was the goal that a formula distribution to any size tribe be sufficient to provide at least one advocate position. OVW is also seeking recommendations on where to obtain tribal population numbers if any elements of the formula are based on population.



The proposal to award GTGP funds by formula is supported by the recently released report from the Indian Law and Order Commission,<sup>3</sup> which recommends that all tribal funding from DOJ be awarded on a formula basis.

### Tribal Protection Order Registry

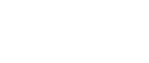
- Should OVW repost the Call for Concept Papers seeking proposals to develop the Section 905(b) Tribal Protection Order Registry Initiative? If so, what suggestions do you have to increase the number of viable applications?
- What benefits and/or adverse consequences, if any, do you foresee for AI/AN victims of intimate partner violence from the tribal protection order registry as currently provided for in Section 905(b) of VAWA 2005?
- What can be done to increase the number of tribal protection orders and criminal convictions submitted to the National Crime Information Center (NCIC)?
- Given the legislative changes impacting public safety in Indian Country since 2005, should the United States Department of Justice seek a reprogramming of the funds appropriated to Section 905(b) and instead request that these monies be used to assist tribes with implementation of Tribal Law and Order Act (TLOA) of 2010, NIAA (The National Instant Criminal Background Check System (NICS) Improvement Amendments Act of 2007), and VAWA 2013?

VAWA 2005 provided for the creation of two different tribal registries, one for tribal protection orders and one for sex offenders residing on tribal lands. In implementation, OVW focused initially on the registry for tribal protection orders. In 2012, OVW released a solicitation to establish the National Tribal Protection Order Registry and received two responses. Neither proposal was found to be viable, however, and the funds have not been awarded.

Several factors complicate the issue of tribal access to national criminal registries:

- The NCIC, operated by the Federal Bureau of Investigation (FBI), is a national registry that currently houses information on sex offenders and protection orders.
- The TLOA of 2010 mandates tribal access to NCIC for all types of criminal offenses. Access includes searching the database as well as entering tribal information.
- NCIC access is administered through FBI agreements with individual state agencies. These agencies then dictate access to NCIC at the state level. Because of legal and administrative complications, many tribes still find their access to NCIC prohibited or limited at the state level.
- Currently, just over 20 tribal criminal justice agencies submit protection order information to NCIC about protection orders issued in tribal courts.

<sup>3</sup> The Indian Law and Order Commission (ILOC) report, *A Roadmap for Making Native America Safer*, was released on November 12, 2013. It can be viewed online at the ILOC website: <http://www.aisc.ucla.edu/iloc/report/index.html>





Given that legislation related to national registry access for tribes has changed since VAWA 2005, and given the difficulties that the project to create a new tribal registry has faced, DOJ is asking tribes for advice on how best to move forward on protection order registry issues to meet tribes' needs.

## **OVW STOP Program Regulations**

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

STOP Violence Against Women grants are DOJ's largest funding stream directly to states. Tribes are not directly eligible for STOP funds, but they can receive funds through a state as a subgrantee. In addition, a certain portion of STOP funds are designated for tribal organizations. In the STOP grants to states, 30% of funds are required go to victim services. Of the victim services allocation, 10% of the total must be devoted to culturally specific community-based organizations, including tribal organizations.

VAWA 2013 made several significant changes in the STOP Program that affect tribal populations. First, VAWA 2013 amends the formula by which STOP funds are distributed so that tribal populations are now included in each state's population. (Previously, tribal populations were not counted in a state's population.) Second, VAWA 2013 now includes tribal governments as one of the required entities with which states must consult when deciding how to use their STOP funding. Because of these changes, OVW staff is discussing amending the STOP Program regulation and will hold a listening session with tribes to discuss this further.

## **Tribal Sexual Assault Services Program**

- Should OVW release a single solicitation in Fiscal Year 2014 that requests applications for both Tribal Sexual Assault Services Program (Tribal SASP) and Sexual Assault Services Culturally Specific Program (SAS CSP)?
- Should OVW make Tribal SASP awards available directly to tribal nonprofits, as authorized by VAWA 2005?

Tribal SASP funds were first authorized under VAWA 2005. OVW is considering combining the solicitation for Tribal SASP and SAS CSP into one solicitation that would be open to federally recognized tribes, as well as nonprofit nongovernmental organizations including tribal nonprofits. Under this new solicitation arrangement, all federal funds specifically appropriated for tribes under Tribal SASP would only be awarded to tribes and tribal nonprofits. In addition, tribal nonprofits would also be eligible for awards from funds (under SAS CSP) that are appropriated for nonprofit culturally specific organizations.



Currently, Tribal SASP funds are included under the Consolidated Tribal Assistance Solicitation (CTAS), and DOJ has found that most CTAS applications include activities that are not allowable under Tribal SASP. Consequently, these funds cannot always be awarded.

By pulling Tribal SASP funds out of CTAS, this proposal has two goals:

1. To provide clearer guidance on the application process and purpose of Tribal SASP, so that applications can be more closely targeted to the limited program areas of Tribal SASP and SAS CSP.
2. To permit OVW to award Tribal SASP funds directly to tribal nonprofits, as authorized in VAWA 2005. When Tribal SASP funds are included with CTAS, the only permissible applicants are federally recognized tribes and tribal consortia.

### Improving the Response to Sexual Violence

- What is the best way for the Office for Victims of Crime (OVC) and its partners to provide information about training and technical assistance (TTA) resources to tribal leadership, so that tribal leaders are included at the outset of any TTA delivery and invested in its success?
- What are the best ways to provide outreach to tribes about the telemedicine center opportunity? Are tribes involved with existing telemedicine networks that OVC and our partners can connect with?

OVC has launched two initiatives in partnership with the Indian Health Service (IHS), FBI, OVW, and NIJ to improve the response to sexual violence in tribal communities. OVC would like feedback on how to best use these resources to provide appropriate training to tribal communities, and how to ensure effective communication about these efforts.

The first initiative, the Tailored Training and Technical Assistance Project (TTTAP), will provide customized TTA to tribal communities on establishing coordinated community sexual violence responses. TTA begins with a tribal council resolution, followed by a comprehensive community needs assessment. It is designed to support the tribe and federal, state, and local stakeholders in their efforts to establish a victim-centered, culturally relevant, coordinated community response to adult and child victims of sexual violence.

The second initiative, the National Sexual Assault TeleNursing Center, is funded by OVC in partnership with NIJ. The center was established by the Massachusetts Department of Public Health and provides services 24/7, 365 days a year, to clinicians caring for adult and adolescent sexual assault patients. Four national pilot sites, including a tribal site, will be selected to partner in this project. IHS and the National Indigenous Women’s Resource Center are working closely with the Massachusetts Department of Public Health to identify a tribal pilot site. More information is available at [www.mass.gov/dph/telenursing](http://www.mass.gov/dph/telenursing).





## Introduction of Federal Partners

After introducing DOJ's consultation topics, Ms. Hanson introduced other federal partners who were attending the consultation.

**Karol Mason**, Assistant Attorney General for the Office of Justice Programs (OJP), welcomed consultation attendees on behalf of the OJP and recognized OJP employees who were present. She assured the group that addressing violence against Native women would continue to be a priority for OJP and for her personally. Ms. Mason also brought greetings from Eugenia Tyner-Dawson, Senior Advisor for Tribal Affairs and Executive Director of the Justice Programs Council on Native American Affairs in the OJP. Ms. Tyner-Dawson has been a regular DOJ representative at consultations in past years, but was unable to attend this year because of a recent surgery.

Other DOJ representatives present at the consultation included:

- **Emily Gallas**, Attorney Advisor, Office of the General Counsel, OJP
- **Matt Lysakowski**, Tribal Liaison, Community Oriented Policing Services
- **Gaye Tenoso**, Deputy Director, Office of Tribal Justice

The annual government-to-government consultation is also regularly attended by representatives from the Bureau of Indian Affairs (BIA) and IHS. In 2013, these representatives from BIA and IHS were present:

- **Tricia Tingle**, Associate Director of the Office of Tribal Justice Support, which is the tribal court division of BIA
- **Beverly Cotton** (Mississippi Band of Choctaw Indians), National SANE-SART (Sexual Assault Nurse Examiner-Sexual Assault Response Team) Coordinator, IHS

## TRIBAL LEADER TESTIMONY

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The consultation portion of the event began by having each person at the table introduce themselves. This included tribal leaders, tribal government designees, other subject matter experts from tribes and service and advocacy organizations, and federal representatives. For a full list of tribal and federal representatives in attendance, please see Appendix 1. Consultation Participants.

### Tribal Representatives' Oral Testimony

Tribal representatives gave testimony in the morning and afternoon sessions of the consultation. Their testimony is summarized below, labeled by tribe and speaker. Effort has been made to retain the direct and personal tone of testimony provided and to highlight recommendations.



## Northern Cheyenne Tribe, Lame Deer, Montana

### *Jace Killsback, Council Member*

I'd like to begin with the story of Hanna Harris, a 21-year old mother from Lame Deer who was murdered on July 4, 2013. For 3 days following her disappearance, family members asked our BIA law enforcement on the Northern Cheyenne reservation to do a search and rescue, but they refused. Five days later, when a search was undertaken by family and volunteer firefighters, they found her body, badly decomposed in the hot weather. Five months after that murder, we have had no status update from U.S. Attorney Mike Cotter, and no status update from the FBI. Because of this case, 20 other unsolved murders have come forward, and there is a huge effort in our community and our tribal government to look at unsolved murders, particularly of young women. In Hanna's case, however, the hands of the tribal government are tied, because there is technically a federal investigation going on, even though we have only received lip service from the U.S. Attorney.

The family deserves some kind of follow-up. Imagine if Hanna Harris had been white. Imagine if the perpetrators had been white. In Montana, it seems that Indian-on-Indian violence and murder is okay, and it only matters if white people are involved.

Our U.S. Attorneys are focused on corruption in Indian Country, and how funds are handled. They should be focused on violence in Indian Country. We are capable of handling our monies and our government, and they need to be focused on the violent crime that is occurring on our reservations. They need to shift their focus back to the safety of our communities. We anticipate that VAWA will face some strong tests in the Montana and Wyoming areas with checker-boarded tribal lands and shared jurisdiction reservations.

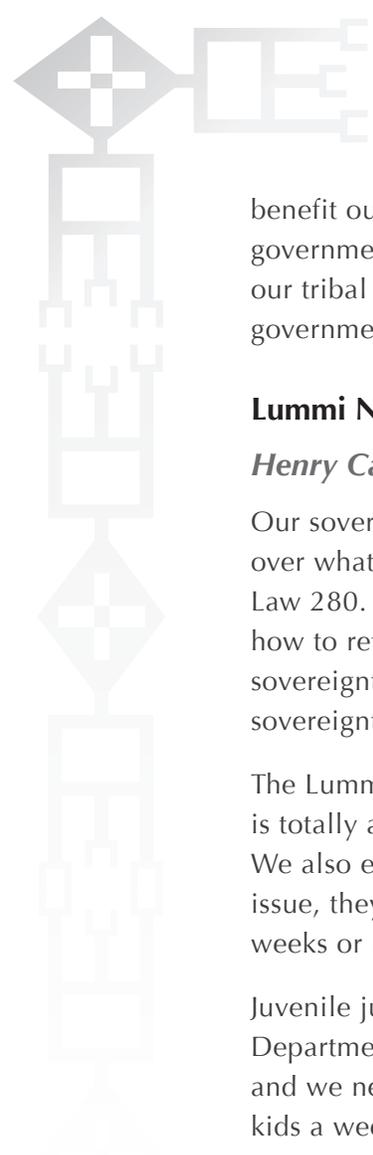
For federal grant programs, we are interested in direct funding to tribes. It's good that consultation is now required under the STOP program, but what level of consultation is required? What is the standard?

We've added the term *meaningful*—"meaningful consultation." That requires follow-up. In our region, we're asking for meaningful consultation with feedback and follow-up, with data, action plans, and responses from tribal governments. We know that dollars are supposed to follow the data, and if the state is going to be using our data, we expect to see those dollars.

In response to the question on funding formulas, I recommend that we look at a formula that includes land base and trust lands, but also population and socioeconomic status. Capacity is an extremely important issue for tribal governments because different tribes may require more technical assistance in applying for these grants, because of a lack of internal capacity and resources.

Regarding funding for nongovernmental organizations, I have no problem with other Indian people and organizations doing work for our people. I do have a problem with nonprofits who get the grants and don't do the work for the people. These are "poverty pimps," who come to our reservation, use our data, get a grant, create an organization, and it doesn't





benefit our community. I urge DOJ to be cautious in distributing funds to non-tribal-government organizations. We need to focus on building the capacity and programs of our tribal governments to meet these needs, instead of nonprofits. That would be a true government-to-government relationship.

## **Lummi Nation, Bellingham, Washington**

### ***Henry Cagey, Lummi Indian Business Council***

Our sovereignty as tribal nations is the beginning of justice, and exercising more jurisdiction over what happens on our own land is a good beginning. It's a crack in the armor of Public Law 280. The new jurisdiction in VAWA 2013 is a beginning point for tribes to think about how to retain and regain our jurisdiction over what's happening on our own land. Our sovereignty rests in our codes, and they have to be upheld and enforced to protect our sovereignty.

The Lummi Nation is still having problems with protective orders. We live in a county that is totally anti-Lummi, and their judges and prosecutors continue to ignore our court orders. We also experience that the feds are very slow to respond to our major cases. If it's a gaming issue, they are there the next day, but on a drug case or a sexual assault case, we'll wait weeks or months before they get back to us.

Juvenile justice is another important issue for tribal sovereignty. I want to remind the Justice Department that Indian child welfare is still a big issue, as we saw it with Baby Veronica,<sup>4</sup> and we need you to address it. We are losing our kids every day. In Lummi, we just lost three kids a week ago—we won't see them again for 2 or 3 years, or even until they're adults.

While it's important that VAWA 2013 has passed, it remains up to DOJ to fully fund it. We hear that there's no more money coming from Capitol Hill, so it's critical that DOJ do what they can to untie our hands so we have the freedom to generate our own revenue and build our own economies. Especially when we can't count on more federal funding, it's critical that DOJ address land issues and water rights. We're waiting on a decision from DOJ on water issues right now.

Finally, we need to remember the urban folks. There are 40,000 Indians in Seattle, and they come together on their own dime to address support and healing. We have to remember that urban folks have the same problems off the reservation that we do, and they need assistance as well. While I kind of disagree on giving grant money to non-tribal groups, we do need to make sure we provide for urban Indian needs.

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<sup>4</sup> In 2013, the U.S. Supreme Court decided in *Adoptive Couple v. Baby Girl* that provisions of the Indian Child Welfare Act (ICWA) did not apply to a Native American father who did not have custody of his child, and that preferred placement with another Indian family did not apply if no other party had filed to adopt the child. "Baby Veronica," the child in this case, remained with her non-Indian adoptive parents.



## **Akiak Native Community, Akiak, Alaska**

### ***Mike Williams, Chief of the Yupit Nation Consortium of Federally Recognized Tribes***

Akiak Native Community is honored to have a program under VAWA, and it is working to protect our community. While I'm very pleased at the protections afforded by VAWA 2013 for all of our women in Indian Country, women in Alaska are largely left out in the cold. Of the 228 federally recognized tribes in Alaska, none are counted as "Indian Country" except Metlakatla, the only reservation in Alaska.

Alaska Native women are far more likely to be raped or sexually assaulted than other American women, and about 86% of the victimizers of our Native women are non-Native men. Alaska indigenous peoples make up about 17% of the state population, but we comprise about 50% of victims of domestic violence and about 62% of victims of sexual assault.

The small size and remoteness of many villages work against Native women's safety. We have 140 villages with no state law enforcement. The State of Alaska is working to place public safety officers in these villages in the next 10 years. In the meantime, women there are days away from a state trooper who can protect them and enforce the law. About 50 of these villages have village or tribal police, but 90 have no law enforcement whatsoever. Getting a restraining order requires traveling by snowmobile, boat, airplane, or dog team to the nearest hub where a judge is.

The special domestic violence criminal jurisdiction and civil protection order powers under VAWA 2013 are part of the answer for communities without conventional courts readily available to issue protective orders. But the special rule for the State of Alaska<sup>5</sup> in VAWA 2013 effectively leaves out 40% of the tribal nations in the United States, excluding 228 tribes in Alaska.

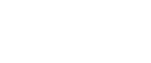
Just as the Bakken area oil boom has had severe consequences for the safety of Native women in that area, Alaska has many oil producing areas where rapid development is attracting people and resulting in an increase in health problems and violence against women. At the Alaska Federation of Natives Annual Convention, a resolution was adopted to address the safety of Native women. One recommendation is that the Tribal SASP funds could be spent specifically developing Native advocacy services in the Bakken and Alaska oil development areas where they are needed.

Other recommendations for OVW include the following.

- OVW should reach out to corporations or federal agencies who can address improving Internet access in Alaska, particularly in rural and remote villages.
- Applying for and administering these grants, especially from a remote location with limited internet connectivity, is difficult and time-consuming. Please don't make our women suffer without services because we lack grant writers and administrators.

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<sup>5</sup> Section 910 of VAWA 2013.







## **Pueblo of Zuni, Zuni, New Mexico**

### ***Arlen Quetawki, Governor***

Domestic violence is an issue that impacts us all. Even as we sit here around the table to discuss these issues, domestic violence is happening in our communities. It's a cycle of violence that continues to endure.

When we talk about "consultation," I'd like to put that word to the side and talk about "collaboration" instead. How can we all work together to come out with a win-win situation? Our experience of consultation as tribal leaders is that we simply get a letter or a phone call from a federal agency, and they can say, "Hey, I did my consultation like the President told me to do."

Whenever I sit here at the consultation table with tribal leaders and federal representatives, I hear the same thing: "Why are you not helping us?" While it's great that we've passed laws like VAWA, we need to be talking about what's actually working and what's not. Are there best practices that can be shared? Do tribes have documentation and statistics on certain issues? Those need to be shared. And for tribes who do not have the capacity for these activities, why are we not helping them out?

It's great that we've passed laws like TLOA. Some tribes have constitutions that are very outdated, but it takes money to revise and amend our constitutions. In addition, BIA often has to be involved, which delays the process further. It's great that VAWA allow the opportunity to prosecute non-Indians. How many of us have tribal courts? How many of us have licensed attorneys and judges?

I'm also in Washington, DC, as part of a group of tribal leaders that is meeting to discuss ICWA. Think about the Baby Veronica case. I believe there are a lot of Supreme Court judges and state-level judges who do not understand tribal issues. We need to encourage our kids to go into law school and become judges, especially at the Supreme Court level, so we can have a voice where laws are being interpreted.

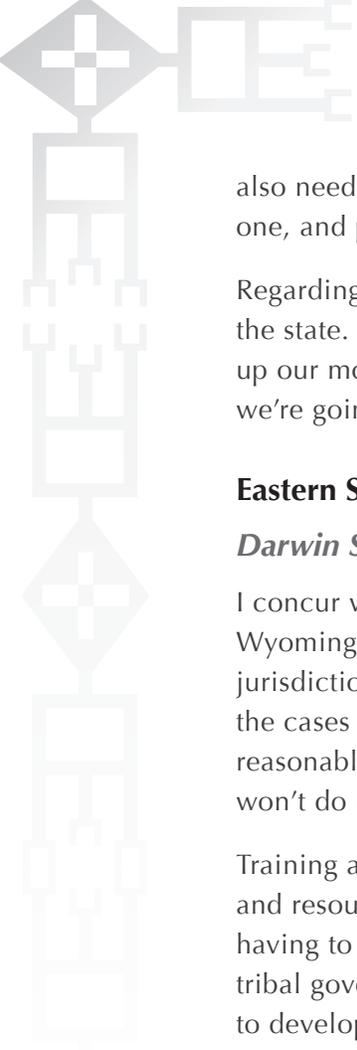
We also need to be meeting with our congressmen and senators. We should have them at this table, so they can hear what we're saying. Federal employees have your hands tied, you can't advocate that much. But as tribal leaders, we need to be meeting with our congressional representatives and senators, so they can begin to hear and understand our issues.

## **Absentee Shawnee Tribe of Oklahoma, Shawnee, Oklahoma**

### ***Vera Dawsey, Executive Committee Member***

One of the things I know about domestic violence and sexual assault is that I've gone through it since I was 2 years old, being mentally, physically, and sexually abused by different males in my family. I'm 61 years old now, and I still look back and think, "How did I make it?" I can see violence in the families of my brothers, and my daughter and her husband. But we need to try to focus on the whole picture, not just violence itself. People who are abusers





also need counseling for where they came from. It's not just a legal issue, it's a psychological one, and people are very much the products of the environments they grow up in.

Regarding federal funding, it's very important that it come directly to tribes and not through the state. In Oklahoma, whenever we try to work with our governor, she pushes for us to give up our most favored nations clause. That's our sovereignty, and it's certainly not something we're going to consider giving up.

## **Eastern Shoshone Tribe, Fort Washakie, Wyoming**

### ***Darwin St. Clair, Jr., Chairman***

I concur with Mr. Killback (Northern Cheyenne Tribe, Montana) that in the Montana-Wyoming Tribal Leaders Council, many of the issues we struggle with are issues of jurisdiction. When federal agents come in to investigate, it seems like they only investigate the cases that are slam dunks—when it's just obvious. Getting them to take action in a reasonable time is very difficult. If the case is complex or if it involves a non-Indian, they won't do it. If it's Indian-on-Indian, they're right on it.

Training and technical assistance is very important to our people—providing local support and resources so they can learn to manage these programs on the reservation, without having to go outside. Webinars and virtual training are good because paying for travel, which tribal governments have to do very frequently, can be incredibly costly. Training related to developing our tribal court system is also very important. Meeting VAWA requirements through increased legal training is an opportunity we hope we are afforded. While we do have several legally trained judges, they need additional training to serve in their positions as well.

Regarding direct funding, we prefer it. We go round and round with the State of Wyoming concerning how we'll get our funding, and we hope that DOJ continues direct funding to our people.

A letter from the Eastern Shoshone tribal program contains additional points to be added to the record:

- Thanks to Attorney General Holder, Secretary Jewell, Secretary Sebelius, and their colleagues for the opportunity to consult on measures necessary to ensure the safety and wellbeing of Native women in our tribal communities.
- Thanks to all those whose work secured the reauthorization of VAWA. It has enabled Eastern Shoshone Tribe to prepare our tribal courts and tribal codes to assist in protecting women, and it has given us a dignity that only comes from the basic human right of safety and protection.
- Thanks to OVW for funding Women Restored, Eastern Shoshone's new domestic violence and sexual assault program. It is using a restorative and repatriation model that engages tribal members as service providers and agents of change.



- Many scholars and experts agree that the abuse of American Indian women can be traced back to historical victimization when domination and oppression used against Indian people created poverty, dependency, and normalization of violence.
- Just as it took time to create the current dysfunctional social, political, and legal systems, it will take time to restore women to their important and honored place in our tribal communities. For these reasons, funding for programs that address violence against women should be removed from a competitive application process and should instead be funded continually.

## **Ute Indian Tribe, Fort Duchesne, Utah**

### ***Bruce Ignacio, Councilman***

We need clarification on many issues, including checkerboard jurisdiction, because it's not clear from reservation to reservation how VAWA will be implemented or applied. Implementation is especially important because it involves our sovereignty and jurisdiction as independent nations. Enforcement on reservations is also crucial. I come from the tribe with the second largest land-base<sup>6</sup> in the U.S., and we have only two officers on patrol at most times. We've tried to address this with DOJ with little response.

The Ute Tribe has passed an amendment to its law and order code to implement both VAWA and the Tribal Law and Order Act. Soon after VAWA was passed, our tribe provided written notification to DOJ of our desire to participate in the special domestic violence criminal jurisdiction pilot program, but one of our main concerns is how long it is taking to get the pilot project underway. VAWA 2013 was passed in March, and it's already 8 months later, which means there's only 16 more months for the pilot program.

Our tribe is an oil- and gas-producing tribe, and that type of industry brings a great increase in population to rural areas—I think any tribe that has experienced a natural resource explosion can understand what I'm talking about—and that means that many of our tribal members can get involved with non-tribal citizens. This is a problem for us, because we can't prosecute them in our tribal courts. So, further clarification is still needed, and we look to DOJ to provide that.

We support the Federal Prosecutor program, and we understand that we need law-trained judges. We're moving in that direction, and would like to emphasize to other Indian nations that law-trained judges are a necessity.

Our tribe also continues to have problems with gangs and drugs, despite the fact that we have a zero tolerance policy on our reservation. In the past year, our tribe has requested funding for a justice center, and it has been difficult to obtain. So I ask DOJ to commit to helping Indian nations develop their justice centers.

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<sup>6</sup> The Ute Indian Reservation covers 4.5 million acres in a three-county area in northeastern Utah.







In Oklahoma, there are four shelters operated by tribes. These four shelters serve 38 tribes in Oklahoma. Oklahoma is second in the nation in Native American population. We are also third in the nation for females murdered by males in single-victim homicides.

This relates to funding available under the Family Violence Prevention Services Act (FVPSA). The tribal shelters have seen drastic decreases in the funding available to them under FVPSA.

We urge everyone to look at the formula and consider shelters that are already in existence and keeping them funded, so they can continue to serve victims in need. At our shelter, we average a 30-day stay, and we had 18 sexual assault victims that we could not place in our shelter—we had to return them to place where they had been assaulted. In the proposed formula, because we have 19,000 members, we fall into the 50,000 and under population category, but that doesn't mean our need isn't as great as a tribe that has a population of 60,000.

***Leonard Harjo, Principal Chief***

I represent 19,600 enrolled tribal members, and we are very fortunate to have a very successful domestic violence program and to have participated in DOJ funding. Over the last 6 years, we've built a program with a wide variety of services including transitional living, a batterer's intervention program, and a shelter.

One of our biggest concerns with the proposed funding formula is the long-term viability of our programs. Time and capacity are of the essence. It's very common for the federal government or the private sector to come in and offer funding for 3 years. And after that, the tribe is supposed to pick up funding and operations. But very few of us have the capacity to do that after only 3 years.

It's hard to comment on the question of a formula, because we've seen firsthand the opportunities and positive impacts that can come in a relatively short period of time from domestic violence funds, and we believe that this opportunity should be extended to all of our Native nations. Only about a third of tribes have access to funding at this time. But the levels of funding are critical. If we move to a formula-based level, the Seminole Nation is going to lose some of the capacity that we've already built, and we'll lose the ability to address multiple aspects of the domestic violence problem.

As has already been explained, our shelter serves a wide cross-section of our community, not just tribal members. If we move to 100% tribal funding, it is likely that our council will demand that only tribal members be served through the facility. They have every right to do that, but we'll be put in the position of denying access to other people who need it, and that's a position we don't want to be in. I do believe that the funding formula will support a much-needed expansion of services in Indian Country, but the amount of money we're talking about, looking at the example formulas, is not going to allow very many people to build sustainable programs.





Regarding improving the response to sexual violence, we live in eastern Oklahoma, where there are probably 300,000 or more Native American people who are served by the Eastern District of the U.S. Attorney's Office. From the information we have, we cannot find any crimes related to sexual violence or anything that would be prosecuted under VAWA that have been prosecuted in our district in the last several years. People perpetrate these crimes with the knowledge that there is no capacity to prosecute them—they know that if it is beyond the scope of tribal courts, it will never move into U.S. District Court. In Eastern Oklahoma, there is only one FBI field investigator. We need more dedicated resources to prosecuting crimes of all types, but particularly sexual assault and domestic violence because special sensitivity is required to get participation from the victims in communities. We need to bring it into the consciousness of the people who commit these crimes that there will be consequences to their actions.

### **Lower Elwha Klallam Tribe, Port Angeles, Washington**

#### ***Frances Charles, Tribal Chair***

Our reservation is a checkerboard reservation, and dealing with jurisdictional issues and cross-deputization is very challenging. We have current cross-deputization processes set up with our county, but the county requires additional training for our officers and also requires that they have a \$10 million bond, when usually only \$1 million is required.

Our reservation is small, and we have many intermarriages, marriages to non-Natives, and unmarried relationships. Our members have relationships with Canadian citizens. We also host our annual canoe journey, where thousands of visitors come to our territory. Because of this, it's vital that we have shared information about predators across Indian Country available online.

In terms of our law and order systems, everyone on the reservation has a scanner, so it's easy to listen and hear what's taking place, but people are very reluctant to report. They're afraid to call 911, and they're afraid to call our tribal police because they fear retaliation. As a tribal leader, I receive many of these calls and try to follow up with the needed protections for these individuals. We're also working on setting up radio frequencies using a tower we have on our lands.

All our programs are affected by the limits of what we're able to provide, from Indian Child Welfare and social services to therapy and counseling. Native and non-Native family members are affected, and often victims are unwilling to testify in tribal court because they are afraid, or because they've returned to the relationship with their partner.

Children witness the violence no matter what. I raised my grandson for 2 years because of this violence, but his father still had visitation rights, even when he had not complied with attending court-ordered domestic violence classes. Those classes were not available in our jurisdiction because of service limitations. Where are the rights for children like this? What are the rights of grandparents? In Washington state, we do not have these rights. These laws need to be changed for Indian Country, because how many of you have raised your grandchildren?



We've started doing outreach to surrounding governments and agencies, to children in public schools and at gatherings and events. The message is that you don't have to be involved in domestic violence, or with the wannabe gangs that we have in our area, and that you can say no to abuse. This outreach is having some effect, because we've had a few young people step forward to report their parents, to talk to advocates or enforcement about what goes on in their homes.

I'm concerned about the formula because, as you've heard from many people at this consultation, we do not have enough resources to meet the needs of our people. I'm also saddened to learn that VAWA does not protect Alaska Natives. There are so many Alaska Natives on our reservation and in surrounding areas that we provide services to.

I would ask for full funding for the courts, for law enforcement training, and for staff salaries. We hire officers, we fully train them, and then they leave for other employment that pays more than we can as a small tribe. Ensuring that our warrants and protection orders are recognized in surrounding county and city jurisdictions is an ongoing issue. Another is supporting tribal judges. We need them to protect our sovereignty, our rights, and our jurisdictions.

We need to increase awareness that everyone should be a reporter. Even in our own organizations, we need to get better about understanding reporting processes and acting on them, whether it's elder abuse, Indian child welfare, or any other issue.

Transitional housing is needed in our community. We're a small community, and when we put up safe homes, it tells the community where the victims are. We've been able to secure unidentified housing in some smaller towns in the area.

Incarceration can cost up to \$10,000 a month, and the high cost trades off with services for community, youth, and elders.

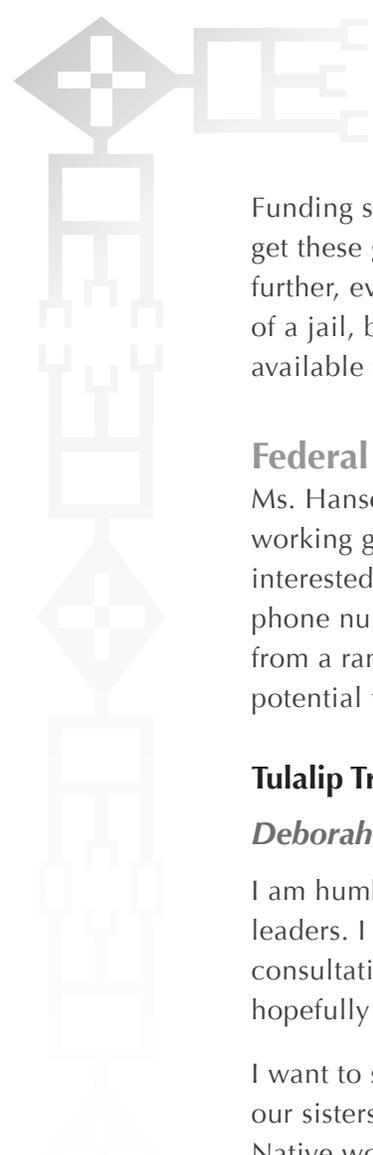
Technical assistance is also needed. We understand that it's being addressed in this consultation, but we've still faced problems such as recordings or technical complications with webinars, and these problems make it very difficult for our staff to work with.

We thank the Attorney General and other enforcement that recently visited our territories to listen to our concerns and the concerns of neighboring tribes.

Our domestic violence program is currently serving 44 victims. They're not only Elwha members; they're Alaska Natives, non-members, intermixed families, and others. Serving these needs is dependent on limited OVW grants. We need the flexibility to serve a family's full range of needs.

We support NCAI Resolution #TUL-13-011 about adequate funding for tribal coalitions, who are best suited to providing regional appropriate expertise, program services, and technical assistance.





Funding sources need to be administered on a national annual noncompetitive basis. We get these grants that are 2 or 3 years long, and after that time we struggle to fund the project further, even though it is still a priority need in our community. For example, we are in need of a jail, but while funding is available for construction, there are very limited resources available for staffing and maintenance after that.

## **Federal Responses**

Ms. Hanson shared that several representatives had raised the possibility of putting together a working group to discuss formula funding. A sign-up sheet will be passed around, and people interested in serving on this short-term working group should sign up with their name, tribe, phone number, and email address. Ideally, the working group will contain representatives from a range of tribes of different sizes, which would be impacted in different ways by a potential formula, to gain a range of perspectives on the proposal.

### **Tulalip Tribes, Tulalip, Washington**

#### ***Deborah Parker, Vice Chairwoman***

I am humbled and grateful to be here today, and I thank the DOJ for inviting all our tribal leaders. I concur with the other tribal leaders who stated that this shouldn't be called a consultation, but rather a collaboration. We're here to do just that, to collaborate, and hopefully to find a direction that all tribes can go in together.

I want to support and acknowledge our Alaska Native sisters, and pray that we get help for our sisters there. Our tribe is located 45 minutes north of Seattle, and we have a lot of Alaska Native women who live in the downtown area. Sometimes when I'm driving downtown, I see our women begging or laying on benches. I know that they flee their state to come to the State of Washington, to find a home away from the villages where they had no resources. It's devastating to realize that there are still no resources for them in our urban city.

To address the three main consultation topics, the Tulalip Tribes have the following comments.

For the first topic, about administering tribal funds and programs, we have the following concerns:

- Tulalip Tribe considers ourselves a tribe that is very progressive, and we work very hard on our infrastructure and the diversification of our economies. Unfortunately, however, our building is condemned. We have a definite need for new infrastructure.
- As more victims begin to trust the criminal and judicial systems, more victims will emerge, and existing programs must grow to meet those needs. Our programs are still largely crisis based. Our communities still need to heal.

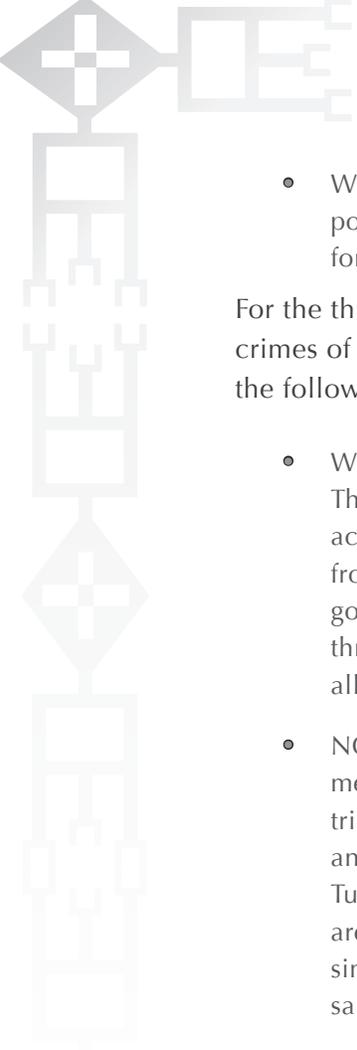


- We need a permanent set-aside within the Victims of Crime Act that is funded directly to tribes, not as a pass-through as part of state programs. The Crime Victims fund earns over \$2 million yearly from fines and penalties, not from tax dollars. This money needs to get to all victims, not just those in state and federal court. There is currently over \$8 billion in the fund, and tribes need immediate access to those funds, available to them to support tribal victims on an equal basis with state and federal victims. We want victims to be able to stay in their communities, but with limited services available in those communities, this continues to be a challenge.
- Regarding competitive funding versus sustainability plans, we request that VAWA-based funding move away from competitive funding and provide block grants to tribes. We need ongoing funding that our programs can depend on. Funding also needs to be available for sustaining a program—not just for developing a new one. Tribes are at a disadvantage in sustaining programs given the lack of a current tax base. We are also generally not recognized by private foundations as nonprofit governments, despite Internal Revenue Code Section 7871, which treats tribes like states for certain tax purposes. Private foundations could recognize this, but they generally do not.
- In general, the CTAS process has been an improvement, but the requirements for how money can be spent do not recognize a tribe’s ability to define what is best for its community. Victims needs vary widely, as does what a tribe considers to be holistic or traditional treatment. There are positive responses to many types of holistic treatment, beyond what has been approved as an evidence-based therapy.
- For Family Violence Protection Grants, the grant process is so cumbersome, and the dollars awarded are so minimal that it hardly seems worth the time to apply. We certainly need money for family services. Child advocacy centers may be focused on crime victims’ needs and not on the services needed for the family as a whole.
- For teen pregnancy, there are many grants available that are based on a mentor model, but small communities may not have the infrastructure to put these programs into place, let alone to apply for a grant to fund it. Additional programs for young women should be created to focus on the tribal need for discouraging teen pregnancy, supporting self-esteem, and increasing education.

For the second topic, about how to enhance the safety of AI/AN women from domestic violence, dating violence, sexual assault, stalking, and sex trafficking, our tribe needs the following:

- We need funding for probation officers specific to domestic violence issues, because more services are required, as is more intensive supervision.
- We need software updates, equipment, resources, training, and technology such as GPS. Probation staff may need training on issues specific to domestic violence. As cases grow, so does the need for better data and software.
- We are seeing older men preying on younger women victims, and we need help developing realistic solutions—both for stopping the predators and for helping the young women, who often come from troubled homes.



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- We would like education to begin earlier, such as a national curriculum to develop positive self-esteem in young women and to provide resources in schools as safe havens for help early on. We also need to educate our young men.

For the third topic, about how the federal government should strengthen its response to the crimes of domestic violence, dating violence, sexual assault, and stalking, we have identified the following needs:

- We recognize that NCIC is a volunteer program maintained by the federal government. The State of California needs to ensure that all law enforcement agencies have equal access to all of their data. Currently, they block tribal law enforcement agencies from accessing their data. Officer safety, employment background checks, and other government functions depend on complete information, which should be available through NCIC. We understand that the FBI has tools to put pressure on states who do not allow tribal access.
- NCIC access for tribes is still dependent on an MOU between the tribe and a state, which means that states can unfairly influence the appearance of these agreements. Instead, tribes should have direct NCIC access that is equal to that of other government entities, and training for law enforcement from other federal partners—not just BIA. Tribes like Tulalip do not interact at all with BIA law enforcement or correctional facilities, so we are not bound by the regulations of that agency. Our law enforcement systems are more similar to states and counties, and we need to receive support and training through the same agencies that they would.
- We need domestic violence-specific training for de-escalation skills, victim safety issues, and emotional issues. With the addition of being able to prosecute non-Indian perpetrators, who do not have the same historical ties to our communities, additional training will be necessary to engage them to ensure victim safety.

The incidence of violence among Native women is so high that it is inexcusable for us not to find a solution to this problem.

### **Muskogee (Creek) Nation, Okmulgee, Oklahoma**

#### ***George Tiger, Principal Chief***

I have come to Washington, DC, with a bit of cautious optimism. Historically, whenever the federal government had a policy that ends with “ion”, it has worried me. First we had termination. As Indian people, we’re not even supposed to be here because the federal government did what it could to try and eliminate us completely. Next we had relocation, where many of our tribal members were taken from a cultural setting to an urban setting, and many of them didn’t make it.

Now we have consultation, which seems to be a very popular thing to say. And recently, we had sequestration. Someone at home asked me how sequestration is affecting our tribe, and I said, “When you really think about it, as Indian people, we’ve always had that problem. We’ve never had the funding we needed, whether it was sequestration or otherwise.” Now



there's budget formulation, and we're still seeing that when it comes to our programs, there's never enough money.

But there are a couple things that end in "ion" that I am pleased to see. Of course, it began in the 1970s with the Self-Determination Act, which has allowed us as Indian people and tribal governments to control our destiny to some degree. And today, when I heard "collaboration," it really enlightened me, because I think that's how we are as Indian people anyway. When we had disagreements, we sat down across the table from one another and got it worked out. Out of self-determination, we've gained a sense of our sovereignty as something to protect and use to our advantage.

In Oklahoma, we don't have reservations, except for Osage Nation. We have jurisdictional issues among ourselves as relatives, but we are still related, and issues that belong to any one of us, like violence against women, belong to us all. Oklahoma tribes were some of the very first in the country to have tribal court systems. We are proud of them, but they aren't recognized by the State of Oklahoma. It's ironic, because in the State of Oklahoma, there are 39 tribes and collectively, we're the state's largest employer. We provide some of the strongest funding for the state's treasury, but we're still being treated to some degree as second-class citizens. We're addressing this slowly by electing our own to sit in the chairs of the state legislature, and that's where we're going to make a difference.

The Muscogee (Creek) Nation is 77,000 plus members. In 2009, we provided services to 54 victims, and this year, that number has increased to 205 victims. Some of our recommendations for addressing the issue of violence against women include the following:

- If the federal government is sincere about working with us, they need to expand their timelines on many of these issues. Even on this consultation, the questions and materials were provided only about a week ago, which is too short of a time to address such an important topic. In the future, those questions should be provided to tribes at least 60 days ahead of time so that we can gather our statistics and research potential outcomes and courses of action.
- We urge DOJ to exercise extreme caution in proceeding with changes to the current methods of distributing tribal grant funds. The five proposed funding formulas leave many unanswered questions, and tribal nations require more time and information to provide the feedback that was requested by DOJ. Also, funding should certainly come directly to tribes, rather than passing through the states; this is the only way to treat tribes as sovereign nations.
- DOJ and OVW should increase staff support for grantees, to decrease funding delays. Delays in the approval of grant budgets and the subsequent delay of releasing funds continues to be an issue experienced by tribal programs and coalitions. For example, the Native Alliance Against Violence, Oklahoma's tribal coalition against domestic and sexual violence, has been waiting for over a year now for a grant budget to be approved and grant funds to be released.



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- The Bureau of Prisons pilot project should be expanded and simplified to aid tribes in incarcerating non-Indian offenders subject to special domestic violence criminal jurisdiction. This would reduce tribal incarceration costs and address tribal concerns about health care costs for non-Indian offenders.
  - Non-tribal organizations whose grant applications propose to provide culturally competent services to tribal populations should be required to demonstrate collaborations with tribal governments in their service areas.
  - DOJ should allow tribes to implement programs that take full advantage of their unique historical and cultural backgrounds, specifically including court proceedings, even while guaranteeing due process.
  - DOJ should implement mechanisms that hold accountable those states that fail to recognize and enforce tribal protection orders.
  - DOJ must use whatever leverage it has to encourage all states to allow tribal protective orders to be entered into the NCIC database. This not only directly aids in protecting victims, but it will also give greater legitimacy to tribal protective orders as a whole, as state and local law enforcement become more familiar with seeing tribal protective orders appear in the NCIC system.
  - Current and future grants and other funding should be structured to clearly allow tribes to use the grants to build their capacity to exercise VAWA-authorized special domestic violence criminal jurisdiction, whether by addressing victim or preparatory services, police, court functions, or incarceration.
  - DOJ should support a thorough effort to increase tribal court security. Many of our tribal courts are rural, remote, isolated, and yet deal with highly charged emotional issues and violent individuals. Without adequate protection or separation of a victim from a perpetrator at a courthouse, successful prosecution becomes problematic. DOJ should help create a safe court environment through technical assistance funding and initiatives that support new buildings.

## **Karuk Tribe of California, Happy Camp, California**

### ***Russell Attebery, Chairman***

I want to encourage the government officials here today to focus on the things that you've heard over and over again from different tribal leaders. Most of the time, when things come up over and over, there really is some validity to them.

In my past work as a teacher and a coach, I've seen firsthand the issues that some of our children face when there is domestic violence or child abuse in homes. We know there is a chain there that needs to be broken. The Karuk Tribe has excellent staff and excellent procedures to help these people, but we continue to be constrained by a lack of funding.



At the Tribal/Interior Budget Council<sup>8</sup> meeting, I've seen plenty of examples where an agency's funding is high, and funding for Native American issues as a proportion of that budget is comparatively quite low. In Karuk country we could do a really good job at solving these issues, if we were just funded equally.

As a Public Law 280 state, we need to see VAWA implementation get started. It's been quite a few months, and without meaningful implementation, the law doesn't mean a whole lot.

Darren Cruzan, the Director of the BIA Office of Justice Services, explained that for 100 crimes committed, there might be only 20 offenders. When we send offenders away, they go for 3 months of treatment and come back out and do the same thing again. I've had offenders who are about ready to get out call me and tell me they didn't feel ready to be released. But we often don't have the funding to pay for continued treatment, even when the offenders themselves are saying that they need it.

The reason we need more funding is because of years of oppression, of alcohol and drug use, and underdeveloped economies with high unemployment rates. The Karuk Tribe had a timber industry at one time. When I was growing up, there were three large sawmills there, but now there are none, and our unemployment rate is at about 18%.

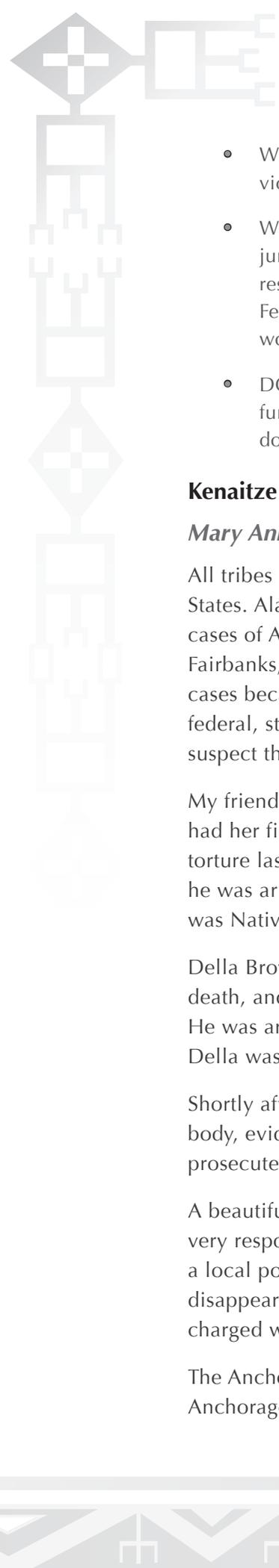
Jaclyn Goodwin, our self-governance officer, and April Attebery, our associate judge and court administrator, assisted in preparing this testimony, and these are their (summarized) comments:

- As a tribe in PL 280 state, the Karuk Tribe receives little or no support from the state and county authorities in law enforcement. State and county officials fail to prosecute crimes on Indian lands because they do not receive federal funding to do so. Technical assistance for cultural sensitivity and jurisdictional issues is badly needed to improve services to our domestic violence victims.
- We are concerned about California's public safety realignment legislation, which will release certain offenders early. We believe it will have a dramatic impact on violent crimes such as sexual abuse and rape. California counties were charged with addressing overcrowding in jails, but tribes were not allowed to have input at the county-level planning. Some tribes were invited to meetings but not as voting members. Like many PL 280 states, we face ongoing issues where the federal government relies on tribes, states, and counties to work together on law enforcement and public safety, and some states continue to exclude tribes from the process.
- We support formula distribution of DOJ funds. It would be ideal for steady growth, development, and improvement of our domestic violence programs, but a larger funding base would be necessary to meet our needs. We are thankful for the current funding we receive. It has allowed us to develop and combine some programs, but we continue to have unmet needs. States do not compete with each other for funding; they get base allocations. Therefore, tribes should as well.

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<sup>8</sup> The Tribal/Interior Budget Council is a forum for tribes and federal officials to work together to develop annual budget requests for Indian programs in the Department of the Interior.



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- We also support the tribal set aside under Victims of Crimes Act (VOCA) to address victims' needs in Indian Country.
  - We recommend that Congress reauthorize VAWA and restore optional criminal jurisdiction for non-Indian people who commit crimes in Indian Country. Additional resources would be made available to tribes who wish to exercise this jurisdiction. Federal assault statutes should be brought into parity with state laws on violence against women.
  - DOJ funding policies should be changed so that tribes are always eligible to apply for funding under Tribal Sexual Assault Services as well as under the rural program for domestic violence and sexual assault services.

### **Kenaitze Indian Tribe, Kenai, Alaska**

#### ***Mary Ann Mills, Chairperson***

All tribes in Alaska were left out of VAWA, yet we make up 40% of tribes in the United States. Alaska is known for its many unsolved assaults, rapes, disappearances, and murder cases of Alaska Native women. The places where these are most prevalent are in Anchorage, Fairbanks, and Nome, although I don't even know if there is accurate reporting of these cases because they were Native women and perhaps not worthy of thorough investigation by federal, state, or city authorities. Many Native women and other concerned people began to suspect that a serial killer in Anchorage was killing our Native women.

My friend Chistochina was one of the victims. She was shoved into a car, beaten, raped, and had her fingers cut off. She was blinded in one eye and suffered traumatic brain injury. This torture lasted 2 days before she was able to escape. When the police found the perpetrator, he was arrested and then released. Her life had little value in the state system because she was Native.

Della Brown was another victim on the streets of Anchorage. She was raped, and beaten to death, and raped again. The perpetrator bragged about the rape and murder to his friends. He was arrested, and then confessed, but the jury found him not guilty and he was released. Della was an Alaska Native.

Shortly after, the same man's neighbor, Mindy S., disappeared. When the police found her body, evidence showed that the same man who killed Della also killed Mindy. He was prosecuted and jailed for the crime. Mindy was non-Native.

A beautiful young Inupiat woman disappeared in Nome. She was a college student and very responsible, and her parents were frantic. She was found murdered. Someone saw a local policeman following her and trying to get her into his police car right before her disappearance. The policeman was arrested, released under his own recognizance, and later charged with this woman's murder.

The Anchorage Daily News ran a story on a string of unsolved murders of women in Anchorage. All but one of these murdered women were Alaska Native.



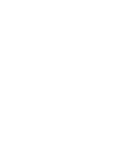
At a Rural Providers conference several years ago, a panel with members from DOJ, FBI, and a state trooper were speaking on the trafficking of Native girls. They explained that some of these girls were picked up by pimps right at the Alaska Federation of Natives conference, and they were blaming us. Just prior to the conference, there was local media coverage about a high profile case involving Senator Stevens and Bill Allen, the president and CEO of VECO (an Alaska oil corporation). Bill Allen was trafficking a young Native girl across state lines. The DOJ told the FBI and troopers not to arrest or prosecute Mr. Allen. This sent a very discouraging message to us about the status quo.

News coverage of this situation portrays our Native girls as prostitutes, when in fact they are victims. The message sent is one of disgrace. This is a small example of the huge problem of violence against Alaska Native women, child sexual trafficking, and assaults. Alaska ranks among the highest nationwide in violent crimes against our Native women and children.

The Kenaitze Indian Tribe strongly recommends the following:

- Section 910 of VAWA, the Special Rule for the State of Alaska, means that Alaska Native women are not protected by the 2013 VAWA reauthorization. The term “Indian Country” must be redefined to reflect tribal jurisdiction, which is based on customary and traditional use areas.
- Section 910 of VAWA should be repealed to enable Alaska tribes to exercise concurrent jurisdiction with the state over civil and criminal matters involving drug and alcohol offenses against their citizens.
- Alaska tribes must have the ability to impose civil sanctions consistent with tribal law, federal law, Alaska law, and the Indian Civil Rights Act, including restorative justice, community service, and other traditional and cultural recommendations. To support this, Alaska tribes also strongly request a federal commitment to providing adequate and consistent funds for tribal courts in Alaska.
- The federal government should establish a task force to address Alaska statistics in violence against women, as well as the number of unsolved cases of assault, rape, and murder of Alaska Native women.
- The federal government should change the laws related to STOP grants and view tribal governments on the same footing as states. It is unfortunate that STOP funds go to the State of Alaska, because their actions with regard to Alaska Natives are hostile. They require us to waive our sovereign immunity in order to receive the funds that are set aside for us within the state funding.

The Kenaitze Indian Tribe is committed to improving the social and economic wellbeing of its citizens. Alaska tribes suffer disproportionately from crimes rooted in the disruption of Alaska Native customs and traditions, as evidenced by some of the highest rates of domestic and sexual violence, child abuse and neglect, alcohol and substance abuse and addictions, teen pregnancy, removal and separation of children from their families, disease, and suicide. Alaska Native women suffer the highest rate of violent sexual assaults in the United States. Half will experience physical or sexual assault at least once in their lifetime.







If there is formula funding, it must take need into consideration. It can't just be based on population numbers. The Washoe Tribe's population does not reflect the need that the community experiences, which the staff struggles to meet. The numbers do not reflect that our tribe must develop and maintain relationships with three different counties in two states, one of which is a Public Law 280 state and the other is not. The numbers do not reflect that the closest facility to perform a forensics exam is an hour and a half away. They do not reflect that it takes over 45 minutes to respond to the northernmost community, and that we have allotments outside the exterior boundaries of our reservation that can only be accessed via dirt roads that aren't plowed in wintertime. The numbers do not reflect that police officers spend a minimum of 3 hours transporting alleged perpetrators to the nearest holding facility, taking the officers away from what they should be doing, which is ensuring public safety in Washoe country. The numbers don't reflect that one of the state-funded local domestic violence agencies is openly hostile to the tribe's domestic violence office and has attempted to cause problems between the tribe and its state funding partner. So, population numbers do not demonstrate need, and the formula must somehow recognize these different considerations.

If OVW decides to switch to formula funding, it should be done thoughtfully, not hastily. As such, we are happy to hear about the proposed workgroup, and we have signed up to participate. The proposal to launch formula funding for Fiscal Year 2015 should be discarded. More consultation, listening sessions, and work with the workgroup must take place first.

Another concern of ours: I mentioned that it takes 3 hours to transport alleged perpetrators to our detention holding facility. On the way there, officers pass two perfectly good county jails. We have a good relationship with these counties, and they are willing to work with us to provide a better solution for detention. We have been asking BIA—literally for years we have been asking, for as long as I have worked with the tribe—to execute a contract with these counties, to no avail. I'm here asking again: please, we need a contract with these local counties. When our officers are off the street for 3 hours at a time, there is no one left to respond to incidents. It's not an efficient use of funds, and it is really reducing public safety in Washoe country.

### **Kalispel Tribe of Indians, Usk, Washington**

#### ***Tom Tremaine, Tribal Court Presiding Judge***

I would like to echo a concern voiced earlier: the timing of the distribution of consultation questions. I am here representing the Business Committee of the Kalispel Tribe, and to feel confident that what I say here represents the wisdom of the Business Committee, I need time to engage in a consultation process with them. When consultation questions are distributed so late, there simply is not that time.





In future events, whether you call it a consultation or a collaboration, it's critical to ensure that the questions get out in time so that each tribe's governing body has the opportunity to do several things: to thoughtfully consider and frame their own responses, and to consult with the people who actually run the programs and provide the services. That way, the consultation will take place with the best information possible.

That said, I am going to make a response to the question of formula funding. Years ago, I had the dubious privilege of being in Washington, DC, for 5 years running, for appropriations hearings. I was introduced to the appropriations process, and one thing that became instantly clear is that the politics of formulating the initial ask—the requested budget amount—by departments and subdepartments had virtually nothing to do with the actual need at hand. It had to do with an overall target figure, and in every instance, less money was requested by the administration than could possibly come close to meeting the need. All programs were underfunded.

The Kalispel Tribe has been relatively successful in its efforts to compete for domestic violence funding, which is great for us and not so great for tribes that lack the resources necessary to compete at an equally effective level. There is no question that making funding available to tribes that don't have it would be a terrific thing. But in the absence of additional funding, it simply means that every tribe who has benefitted from the competitive process up to this point will undoubtedly experience a decrease in funding, mostly likely a significant decrease.

When you have a program, there is a certain amount of money necessary to get it off the ground and to maintain it. Short of that amount, funding may not be only next to worthless, but may actually be damaging if you dive into a program you can't possibly sustain, and perhaps in your effort, you do it badly.

My primary recommendation is for the administration to free DOJ to formulate their fiscal request based on the actual dollar amount necessary to meet the need for all tribes. It would be good for tribes to know exactly who it is that refuses to allow the United States to meet their trust responsibility to tribes. If it's Congress, let us deal with Congress. If it's the administration, or the bean counters in OMB, let us know so that we can focus our attention on the right people.

Until that is done, I am pretty confident that the Kalispel Business Committee would request that you not change how money is distributed until there is enough funding to meet all the needs out there. They would not want our programs, which have proven to be critical and life-saving, compromised.



## **Chippewa Cree Tribe, Box Elder Montana**

### ***Ted Whitford, Vice Chair***

I am shocked to hear of the treatment of the Alaska people in VAWA 2013.

Our concerns are similar to many of the other tribes that spoke, but there are a few things I would like to highlight.

We experience very long turnaround times with background checks. Our tribe is relatively small, and when we have a position opening, it is critical that we can fill it quickly. At one point, we were down to very, very few police officers, but when we submitted background checks for new applicants, we waited a very long time for a response. If there was a way to speed that process up, it would be a great help to our tribe.

Another recommendation to tribes and to DOJ is to communicate openly and work closely for a long-term plan for facility operation and maintenance. We recently completed a justice facility. DOJ had thankfully assisted us in funding the construction of the facility, with the understanding that operations, repair, and maintenance costs would be covered by BIA. BIA has not covered these costs, and the tribe is stuck with the bill. We are operating at a \$394,000 shortfall just to operate the adult side. We haven't been able to open the juvenile side due to lack of funding and training.

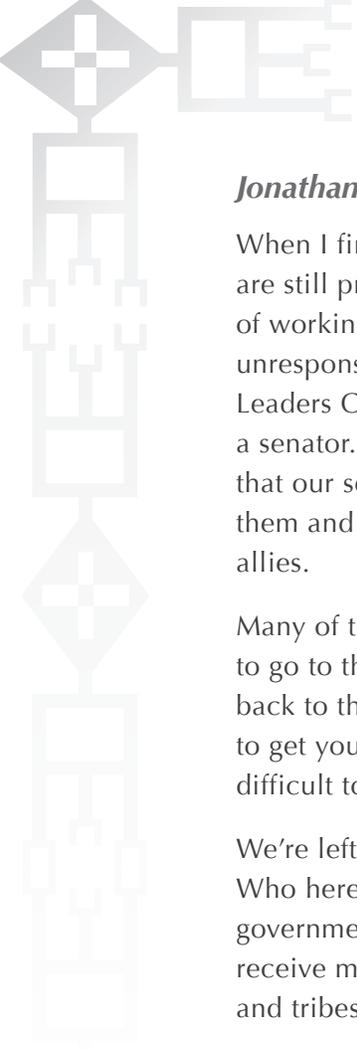
I believe that the implementation of VAWA and TLOA will complement each other and will take tribes another step toward self-determination. Our laws will have to change and develop, but they will ultimately allow us to handle our own crimes in our own systems. Recently, a Montana federal prosecutor told me that 50% of all crimes committed by our tribal members could have been handled in our own justice system, had it been in place to do so.

I recommend that tribes bordering Mexico or Canada consider the need for a working relationship with them, and possibly an MOU. Our tribe is located in north-central Montana, about 60 miles from the Canadian border. We had an instance where a perpetrator crossed the border and was untouchable. We would be open to guidance on how to address this.

Ultimately, this dialogue comes down to a few major issues: funding, collaboration, and equal treatment, among other things. We come to DOJ with our problems, and I trust they will take them into consideration, but we must also consider solutions—to give them guidance about we'd like to see these problems addressed.

I yield the rest of my time to Senator Windy Boy.





***Jonathan Windy Boy, Montana State Senator***

When I first served on council in 1998, many of the same concerns that were priorities then are still priorities today. The main difference is the passage of TLOA and VAWA. In terms of working with the state, I found that certain state administrators who were hostile and unresponsive to me when I came as a tribal advocate from the Montana-Wyoming Tribal Leaders Council had a whole different attitude when I became a state representative and then a senator. For that reason, I encourage more of our people to get into the system. It may be that our senators and representatives are rednecks and racists, but as I have gotten to know them and have educated them on tribal issues, they have become some of my strongest allies.

Many of the tribal leaders here are familiar with lobbying at the national level only to be told to go to the states, because funds are allocated by a devolution process. And when we get back to the states, they tell us, "Wait, you're wards of the federal government, so you need to get your money from the feds." It's a ping-pong effect, back and forth, making it quite difficult to access funds.

We're left out of the process, and pushed back and forth between the feds and the states. Who here has seen a state report, the reports they are required to submit to the federal government? One? This speaks to a lack of collaboration between states and tribes. States receive monies to provide services for tribes, but those monies never make it to the services, and tribes are left footing the bill.

As a law-maker, I'm aware of how incredibly important the rule-making process is. Federal and state laws may mention tribes, but where the rubber meets the road is the process where attorneys actually interpret what the laws mean and how they will be implemented. And those interpretations may not match up with certain realities. So it's important for tribal leaders to be aware of and involved in the rule-making process, so that laws can be interpreted correctly.

We've mentioned Bakken, where oil development is affecting tribes in northwestern North Dakota and northeastern Montana. In March, there were 96 domestic and sexual violence counts against Native women in Montana. They're expecting oil development in the Bakken region to last for 30 years, so the current influx of migrant workers is just the tip of the iceberg.

Drugs will continue to be a problem as well. Many tribes are familiar with methamphetamine, and have experienced it in their communities in epidemic proportions. Another drug that is common in Bakken and will probably make its way throughout Indian Country is black tar heroin. If you think meth is addictive, wait until you see the issues around black tar heroin.



Finally, I'll share a story about areas of collaboration. Several ambulance workers responded to a domestic violence call at a home when I was on council in the 2000s. Cops were already there, performing their investigations, and the offender was still in the house. At that same time, there was a bad car accident. Because of our lack of police force, the police officers on the scene had to leave to respond to the other emergency—leaving the ambulance workers alone with the offender, and vulnerable to whatever he might do. When you're talking about collaboration and lack of services, stories like this are the reality.

## Federal Responses

Ms. Edmo shared with the group that she, Bea Hanson, and other DOJ staff traveled to the Bakken area last July to see the area and the effects of rapid development, such as the man camps, firsthand. They witnessed many of the issues that have been addressed about the Bakken. They also had the opportunity to meet with advocates from the Assiniboine and Sioux Tribe, the Three Affiliated Tribes, and from smaller cities in North Dakota and Montana to hear their concerns from the region.

## Nambe Pueblo, Nambe, New Mexico

### *Lela Kaskalla, Council Member*

It's ironic that federal agencies are so bound by their own restrictions about what they can and can't do. At times, this prohibits services being delivered to those who really need them. And it limits tribes as well, because you're chasing money and competing for money, based on what's being offered rather than on what the needs of your community are, so you start out behind from the very beginning.

Those of us who are here at the consultation are here because we've been funded already, so we have a vested interest in continuing that funding. Culturally, though, we want to extend a hand to other tribes. Unless there is an adequate base that goes to everyone, they're not going to be able to run a program. And because the reporting requirements are so strict, you are set up to fail from the beginning unless you truly have the funds necessary to run a program well and to really deliver services to those that need it. I like the idea of having a workgroup consider the formula, to avoid an adverse impact to currently funded programs or to mitigate it as best we can.

The question of the national crime information registry has been well covered, in that all tribes need access, and that access should not be held hostage by states that require that we give up our sovereign immunity. At the state level, even in tribal-friendly states, working relationships that have been forged for many years between tribes and the state can be significantly disrupted by one party, such as the new governor in New Mexico who is less friendly to tribes.







***Lela Kaskalla, Nambe Pueblo Council Member (continued)***

My concern is that referrals aren't being made. If citations aren't issued, if the tribal courts aren't involved, if staff from the domestic violence programs aren't made aware that these incidents are happening, no one is intervening to help the victim or to provide rehabilitation or counseling.

In a councilmember's family, there was an incident, and the report he received from BIA law enforcement was so blacked out that no names were visible at all. Without names, you can't prosecute; you can't do anything. It causes problems in other areas as well, not just domestic violence. For example, a councilman's son was involved in a car accident with a non-Indian driver, and BIA law enforcement did not cite the other driver because it was on a country road, and evidently, it's too much trouble to wait for the sheriff's department to respond. There wasn't enough evidence in the BIA report on this incident for insurance to pay out on a fully covered vehicle. So, BIA reporting has impacts for us in several areas.

For all federal agencies, there has to be a better way to work together and not be so tied by the fences that separate you. We've had major fires, and the Forest Service can't help, and FEMA can't help, because there is a fence there. To truly address these issues, we need some latitude to solve the problem instead of saying, "That's not my job." When these processes don't work, our communities lose faith in the system, because it looks like we're not addressing their problems.

***Roman Duran, Chief Judge for Pueblo of Nambe***

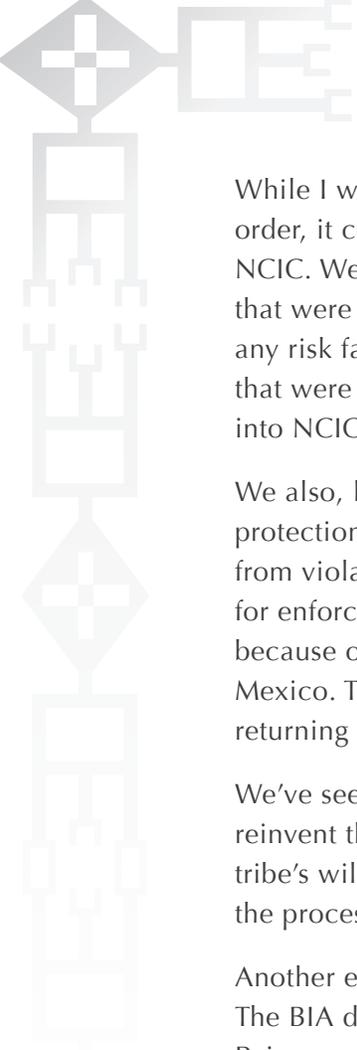
I am the current chief judge of the Pueblo of Nambe, in New Mexico. I am also an enrolled member with the Pueblo of Tesuque. I have served as a tribal court judge for over 17 years, starting at Tesuque, serving at Jicarilla Apache Nation, and ending up this year at Nambe.

I have found these communities to be no different from one another in the issues of violence against women that they face. The differences come in the amount of funding that each has available, and whether they use federal, state, or tribal funds.

Among the consultation questions, I have singled out the question on the protection order registry, as that lies more or less within my position as a judge. I do not believe that OVW should repost the call for concept papers to develop a tribal registry. Instead, OVW should work with NCIC and state agencies to educate tribal law enforcement on being able to serve as an NCIC entry point.

For example, the Pueblo of Tesuque Law Enforcement Department currently works with the State of New Mexico Department of Public Safety, which provides the training and certification for dispatch staff to have authorization to control data entry into NCIC. Tesuque retains custody of the records, which allows modification, verification, and removal of the data. Pueblo of Tesuque tribal courts work closely with the dispatchers to ensure that tribal court orders were entered correctly, periodically verified, and removed when warranted.





While I worked at the Pueblo of Tesuque, when I entered a domestic violence protection order, it could literally be walked over to the dispatch service, which then entered it into NCIC. We worked closely with the dispatch because they could advise us on any changes that were necessary to the information; for example, any identifiers such as a Brady Indicator, any risk factors such as whether the respondent was homicidal or suicidal, or any weapons that were involved. Because of this working relationship, all of our court orders were entered into NCIC, becoming enforceable throughout the United States and its territories.

We also, like the State of New Mexico, had adopted the uniform first page for orders for protection, which included VAWA provisions for arrests and any sections that would result from violation of the order. This system complied with all law enforcement requirements for enforceability and full faith and credit. We also used the same system for warrants, but because of funding limitations, we were only able to extradite within the State of New Mexico. This system has enabled us to pick up defendants as far south as Silver City, NM, returning the defendant to us within a 48 hour period.

We've seen these processes work, and participated in them effectively, so we shouldn't reinvent the wheel for tribes that can participate in NCIC. It's a matter of education and a tribe's willingness to engage with their respective states—unless there are specific barriers to the process.

Another example is the Pueblo of Nambe, which uses BIA to provide law enforcement. The BIA does not have an independent dispatch service, so it contracts with the Pueblo of Pojoaque for these services, with the Pueblo of Pojoaque serving as the central dispatch for the BIA Northern Pueblo Agency. This means that the Pueblo of Nambe has no relationship with a dispatch service, apart from BIA's relationship with Pojoaque's dispatch service. This process could be streamlined further.

Regarding Question B on the tribal registry, the main consequence I can foresee is that victim safety is compromised if tribal protection orders cannot be verified instantly. But, since NCIC already has this system in place, why reinvent the wheel? Utilizing NCIC would satisfy many of these issues.

Regarding Question C, which asks "What can be done to increase the number of tribal protection orders and criminal convictions submitted to NCIC?", the answer is education, education, education. I see a disconnect between tribal police, BIA police, and the tribal courts. Law enforcement is at the forefront of receiving training and information, while judges and court staff are left in the dark. There must be a coordinated effort to bring key law enforcement agencies, including chiefs of police and tribal judges, together at the same table in cases where there are barriers to recording tribal protection orders into NCIC or a tribal registry.

At this time, we don't enter criminal conviction information into NCIC. I see this as a political question to be addressed by the legislative bodies of our tribes, where the tribal legislative body would authorize the court to submit conviction information to NCIC. But this information does play a role in determining sentencing, especially if the victim is a habitual



offender. Tribal law enforcement or BIA law enforcement may not be trained to conduct the necessary research to determine if a defendant has prior convictions, and this is especially important if an offender moves from one community to another.

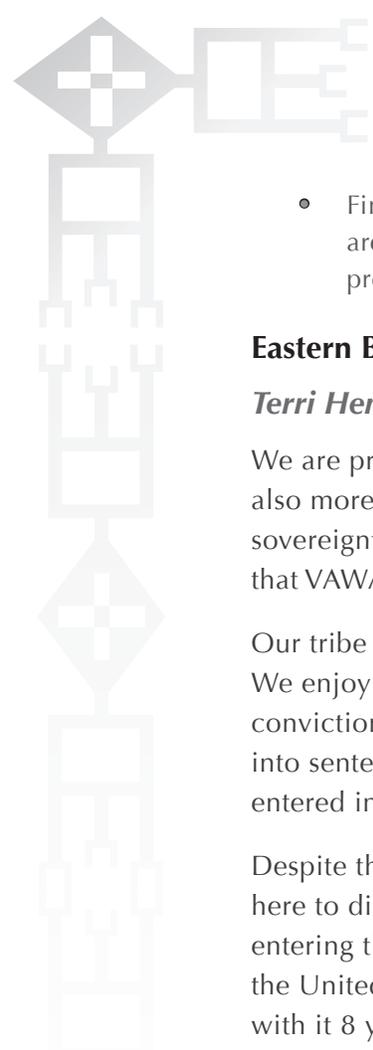
Regarding Question D, which asks about reprogramming funds allocated in VAWA 2005 to the implementation of other programs, I think the question is how many tribes are actually going to be implementing any of these provisions? However, I do strongly believe it is a federal trust responsibility to ensure that each tribe should have equitable access to funding that assists with any issues governing public safety.

Overall, I believe that investments should be made in educating key tribal stakeholders about the tribal registry component and in providing funding to enhance tribal access to NCIC for the entry of tribal protection orders, warrants, and even criminal convictions. This will enhance the protection of all victims in Indian Country and support the sovereign status of all tribes and tribal courts.

Some additional recommendations I'd like to make on other topics include the following:

- There should be a more coordinated effort on collaboration between the departments and agencies involved in violence against women. The U.S. Attorneys' offices prosecute crimes, and they have advocates at the federal level, but they must collaborate with tribal advocates who are on the ground level. We have a wonderful advocate at the U.S. Attorney's office, but she's only one person. How can she work effectively with 19 pueblos, two Apache Nations, and part of the Navajo Nation in our state? There's a disconnect with personnel and staffing.
- For trainings that are coming up, we receive notifications 2 weeks to a month in advance of when the training is scheduled to occur. My calendar is full at least 2 months in advance. Because I'm a single judge, I'm not able to juggle my schedule in this way. Also, the location of the trainings and the cost for travel need to be taken into consideration.
- Alcohol and drug abuse are primary factors that are contributing to violence in the home. When children witness violence in the home, there may be many indicators in the educational system, but our teachers are not properly trained to identify them. There should be training for educators in this area.
- There should also be additional training for health care providers, through IHS, for example. I firmly believe that it should start with prenatal care. These are just examples of all the various areas where agencies should be sitting down together and tying together different types of relationships that can cause or affect domestic violence in the home.
- An issue I've observed is that when our clients are noncompliant with required classes or trainings, it's because of a lack of transportation. We do want to hold them accountable, but penalizing clients for noncompliance because they can't get from Point A to Point B isn't really justice for us. Are there provisions that would allow the purchase of additional vehicles, or permitting programs that provide transportation?



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- Finally, in our domestic violence program, we have a concern for safety because there are victims and offenders that go to the same building for services, because all of our programs are housed in one trailer.

## **Eastern Band of Cherokee, Cherokee, North Carolina**

*Terri Henry, Chairwoman, Co-chair, NCAI Task Force on Violence Against Women*

We are proud of the accomplishment that the reauthorization of VAWA represents. We are also more committed than ever to pursuing the ultimate goal of restoring complete tribal sovereignty in the implementation of justice throughout Indian Country, and we recognize that VAWA 2013, while likely the most significant yet, is still only a step along this path.

Our tribe was among the first to implement the enhanced sentencing provisions in TLOA. We enjoy good relationships with our neighbors in the state and federal systems, and the convictions handed down by our tribal court have been consistently recognized and factored into sentencing by the federal courts in our district. Our protective orders are finally being entered into NCIC through a partnership with the state.

Despite these many accomplishments, we still struggle daily with the issues we are all here to discuss. Even though federal judges recognize our convictions, we have no way of entering them into a national database such as NCIC. This vital issue has been mandated for the United States government to accomplish since VAWA 2005, and we are still struggling with it 8 years later.

In Cherokee, we implemented SORNA in 2011, yet we still struggle with full compliance, largely due to lack of access to NCIC. Our partnership with the state allows us to update protective orders through their NCIC portal and view all NCIC records, but we still have no ability to enter our sex offenders or domestic violence convictions. Because our criminal justice system is inherently different from that of the state, trying to accomplish these things in that partnership is like trying to fit a round peg into a square hole. But this isn't a reason for the actions of our justice system not to be recognized nationally. I urge the U.S. government to develop and implement a tribal-specific portal to the NCIC for participating tribes to have the ability to enter all of their criminal justice orders into NCIC. We should not be left to partnerships with our states; for many tribes, this is not even possible. It is the responsibility of the federal government.

Despite Eastern Band's close working relationships with local and federal partners, we struggle with a lack of investigative resources as well. The FBI had an active investigative presence on the Qualla Boundary in the past, which resulted in strong cases being prosecuted in federal court, but that presence was removed several years ago. We have been promised that this resource will be returned, but our local FBI office tells us that dedicating their limited resources to the Qualla Boundary has not been approved. Despite new assurances from the FBI regional offices, our calls go unanswered in all but the most serious homicide cases. The federal government has done an outstanding job in opening federal courts to our involvement through our SAUSA, but we cannot have cases strong enough for



federal prosecution without strengthened investigative resources through FBI involvement. I urge the federal government to recommit FBI resources to Indian Country and to ensure that these resources are being provided from the top down to the local level.

Cherokee is encouraged and excited to implement the special domestic violence criminal jurisdiction assured by VAWA 2013, and we encourage everyone here today to continue to work for the full implementation of this legislation.

We had a recent issue arise because our domestic violence shelter sits on state-deeded land, and the state has sole criminal jurisdiction over a perpetrator who shows up at the shelter. Initially, the state didn't believe they had jurisdiction, and we ended up in an argument about what constitutes Indian Country. This confusion creates difficulties in charging and in law enforcement. Domestic violence shelters should be protected at all cost, regardless of jurisdictional confusion.

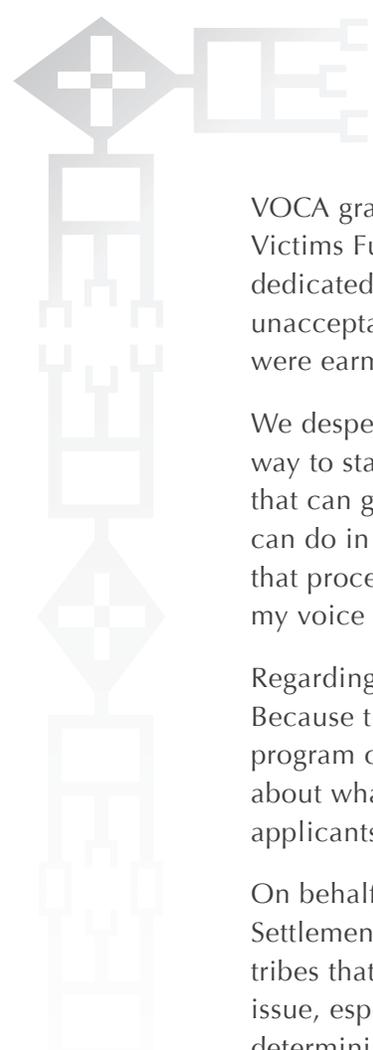
VAWA 2013 speaks about victims' rights, but we have no real formula for creating, mandating, or implementing victims' rights in Indian Country. We need processes and funding for victims' rights throughout the criminal justice system. Are there any tribes here who have a Victims of Crime code? If you do, I would request that they be shared with me.

Regarding formula funding, I would like to offer some background on how that idea was proposed. In one year for grant funding, OVW ruled that tribes were not able to apply for any grants other than those specifically designated for tribal governments. My tribe had applied for and received funding in four other areas, including rural domestic violence programs, legal assistance to victims, grants to encourage arrests, and another area. When we were told in that particular year that we couldn't apply for other funding streams, we were forced to shut down a shelter program and other services to women in part of our community, which was a devastating impact for our people.

In the 2012 consultation, I gave three arguments for why I felt that competitive funding created problems for tribes: (1) by creating instability in programming, when awards are discontinued past a certain grant period; (2) by causing delays in accessing funds, compared to states, which receive their formula-based funds much sooner and without the delay of peer reviews or budget reviews; and (3) by preventing the full awarding of allocated amounts to tribes, because funds are spent on peer reviews and other administrative activities that could be streamlined or eliminated through a formula grant process. My other concern is that the Office gets program funding every single year, so why do we have to write 3-year applications?

Another proposed solution is presented in *Restoration* magazine (October 2013), described on page 34, and it relates to the VOCA that was established in 1984. VOCA was established to help victims of crimes cope with trauma and the aftermath of violent crimes. Our request is to have an above-the-cap set-aside that would not affect current funding to





VOCA grantees.<sup>9</sup> This funding stream is a viable solution because deposits into the Crime Victims Fund are consistently high, and they are not taxpayer dollars. There is currently no dedicated tribal funding stream—can you believe that? This lack of funding to Indian tribes is unacceptable, given the levels of violence and lack of available services for victims. If dollars were earmarked for tribes, this could assist in bolstering current OVW funds.

We desperately need forensics labs in Indian Country. If there is a pilot program, or another way to start these labs, we need to do it. For domestic violence victims, we don't have labs that can get us back forensic evidence in a timely fashion, which negatively affects what we can do in terms of prosecution. Victims can wait for years and never hear anything. We need that process sped up, and I am putting exclamation points behind that request, even though my voice is not raised.

Regarding Tribal SASP funds, my recommendation is for the program to stay just Tribal SASP. Because the framing paper says that a high percentage of grant applications did not meet the program criteria, my concern is that the language in the original application was not clear about what types of programs would be considered. It should be clarified further so that applicants can more easily meet the criteria.

On behalf of the United South and Eastern Tribes, I would like to speak to the Restrictive Settlement Acts issue. When we were advocating for VAWA 2013, we failed to consider tribes that have been affected by Restrictive Settlement Acts. This is a major jurisdictional issue, especially in the east, and it means that tribes are largely at the mercy of states in determining whether or not tribes in those states will have jurisdiction. Other representatives will speak to this in more detail, but I want to express support for this concern. A solution I mentioned to Associate Attorney General West is that states that do not follow federal law in this instance have their DOJ grants held in compliance.

## Federal Responses

In conversation with federal officials present, Ms. Henry identified the following clarifications and recommendations on the framing paper entitled “STOP Violence Against Women Formula Grant Program Statute”:

- Under State Grants, Section F – Federal Share will be rewritten to clarify that there is no tribal match required for STOP funds.
- Under Rape Exam Payments, Section C – Use of Funds, the paper mentions “seek[ing] reimbursement for such exams from their insurance carriers.” Is IHS considered an insurance carrier under this statement? And what about tribes that offer health services under a 638 contract or compact—how will they be treated under this statement?

DOJ staff present stated that they will seek additional information on these questions and rewrite the paper to clarify.

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<sup>9</sup> The President's FY 2014 budget proposed a \$20 million VOCA funding stream for tribal victim support programs. VOCA funds go to states each year, but there is currently no tribal set-aside. VOCA is funded through fines and penalties paid by convicted federal offenders, not from tax dollars, and deposits into the fund have been consistently high over the past several years. Congress sets a “cap” each year for the amount of funds to be released to states. A set aside for tribes would be in addition to the current yearly amount designated for states.



## **Pauma Band of Luiseño Indians, Pauma Valley, California**

### ***Juana Majel, Traditional Legislative Council Member, Co-chair, NCAI Task Force on Violence Against Women***

I asked the President and Cabinet members yesterday [at the White House Tribal Nations Conference] and I ask the same thing to OVW today: that tribes be protected in the budget and that there be no harm done to us. It's not our concern if Congress is stuck in disagreement—we are bipartisan. Tribes don't have the luxury of a party, and there should not be harm done to us when the federal government has party-based political conflicts. You have the sovereign responsibility to us to make sure that we are protected in the budget.

I appreciate the clarity that was offered in OVW's 2013 Update on the Status of Tribal Consultation Recommendations, especially the clear discussion of the budget, and how it was impacted by rescissions and by sequestration. Again, I would ask that tribes are held harmless in this process. We have given away so much in this process and we are so far from equity in funding that to ask us for more sacrifice is too much.

If you consider doing formula-based funding, where tribes automatically get a certain amount, it would do away with the need for peer reviews. The states don't do a peer review, they don't have to go through the tightrope dance that we do, and the level of management required for grants once they are funded isn't required either.

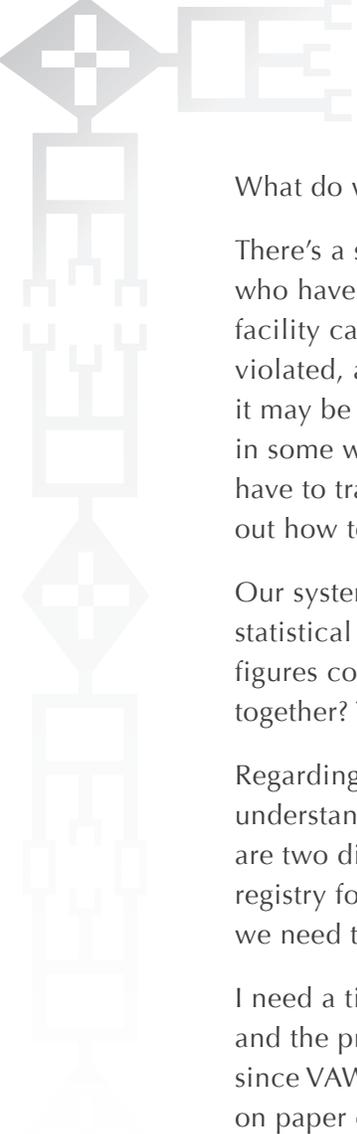
We appreciate very much that DOJ went to the Bakken area to see for yourselves the situation there. You heard our sisters speak about this—when your average number of domestic violence or sexual assault clients is 30, and it increases to 300, you know that's not something to take lightly. We've heard about men surrounding a woman and raping her in a public store, because no one could intervene to stop it. It means so much to us that you investigated this situation directly.

I agree with Terri's recommendation about forensics labs in Indian Country. There should be at least four, to serve the southwest and California, the northeast, the northwest, and the southeast. In addition, as tribes move forward in combatting these very high levels of crimes in their communities, and especially as we start addressing trafficking, these issues will get larger and larger. We need to plan now for DOJ to have a tribal criminal division. We need to prepare to take that next step.

Regarding tribal sexual assault funds, I understand the reasons that proposals may be addressing areas outside of the scope of the funding program. There is such a wide range of issues related to sexual assault, including advocacy, tribal codes, medical examiners, and more, that when you hear the words "sexual assault," you want to see if you can get these needs funded.

But realizing the requirements of the Tribal SASP program make me aware of the fact that there are other grants in OVW and OJP that we should be made aware of, funding streams that may actually address that broader range of needs—funds that would address forensics, or transportation, or tribal police. We are aware that IHS is providing SART teams and equipment, but these are largely going to IHS facilities, not to us at the grass-roots levels.





What do we need to do to get these programs out to the people who need them?

There's a state-of-the-art SART facility in California near us, but more than half of our women who have gone there for an exam have walked out of it. I don't understand how a SART facility can be racially biased. When a woman goes there, it's because she's already been violated, already been hurt. We found out that this facility may not be funded anymore, and it may be closed in December. We've extended our hand to them to ask if we can partner up in some way, but they are unwilling to work with us. Without this facility, our women will have to travel even further away for services. We have to be able to talk, to somehow figure out how to work together.

Our systems of crime data have also got to begin to work together. In my research on statistical data, I've gotten figures from local crime sources, from NIJ, and from BIA. The figures corroborate quite well across these different outlets, but why are they not working together? The BIA, FBI, and the state all record this crime data.

Regarding the tribal registry, sexual assault is not mentioned in the framing paper. While I understand that a registry for protection orders and a registry for sexual assault offenders are two different things, I get uncomfortable when they are separated. SORNA (the national registry for sex offenders) is mentioned in the project history, and it worked quite well, and we need to figure out how to do that, to set that as a standard for our other undertakings.

I need a timeline on when we will resolve these questions about the sexual assault registry and the protection order registry. We've had full faith and credit for tribal protection orders since VAWA 1995, but we need to find a way to make these real. The provisions have been on paper only for too long.

It's the same with the framing paper on funding. We've talked about it, but I want the people in this room who have the relevant experience to commit to engaging in dialogue about what this should actually look like. Don't sit back and wait til we're at the last meeting—tell us now what looks right to you.

I know that NCAI will have more to contribute in terms of the registry proposal, and we'll be submitting comments on it. I'm sure we'll also get clarity on the Tribal SASP questions as well, to figure out what went wrong in that process. I'm not comfortable with Native women being grouped together as minorities and women of color. We are sovereign citizens of sovereign nations, with our own cultures. We fought very hard for the recognition that tribal nations deserved in VAWA, and so it misinterprets our situation to then be grouped in with American minorities.

A final concern is tribal access to NCIC. As the ILOC report demonstrated, there are tribes that are very advanced in their criminal justice systems, and the only thing they're missing is the hookup to NCIC. There are pilot programs for NCIC access in the State of California, but we had the opportunity to be involved in one and we learned that the state wanted us as a tribe to pay \$8,000 for the initial hookup, and that there would be other costs to us as well.



We've experienced other barriers in connecting with existing justice programs. I was looking at the website for the Executive Office of the United States Attorneys, and I couldn't even locate a list of the U.S. Attorneys or the areas they are supposed to serve. When I asked questions to the Office of Tribal Justice, the answers I received weren't the right ones. They explained the process of approving tribal implementation plans and the parties involved, but my question was, "What are you doing to move this effort forward?" And I didn't get an answer to that.

Finally, I think it is critical to have the Department of Interior and the FBI involved in these consultations. Their relationships to the topics here require that they be in discussion with us. We as tribal leadership would certainly be happy to receive updates from them, but it is also important just to meet them and learn to recognize them, so that you feel that your tribe can reach out to them. Right now, there is still a disconnect with all the partners at the table, and I'm uncomfortable with that.

We need to prioritize funding for VAWA and TLOA implementation, as you know. And when it is implemented, there also has to be a monitoring process, and tribes have to be part of both implementation and monitoring. With laws as large as these, we have to be able to communicate with crystal clarity, and to share best practices and to talk about what works. We have a long fight ahead of us with Alaska, as well.

NCAI will have further comments to submit on these topics.

## **Pueblo of Santa Clara, Santa Clara, New Mexico**

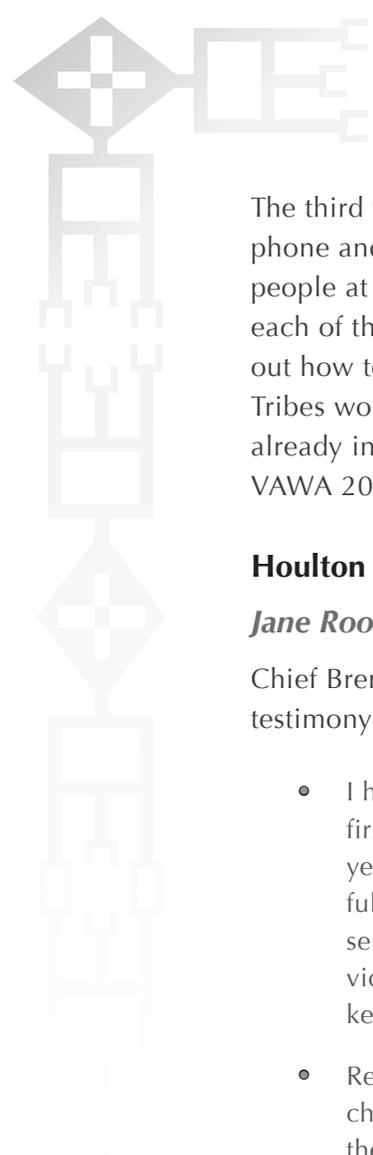
### ***Frank Demolli, Chief Judge***

The governor from the Pueblo of Santa Clara, Bruce Tafoya, sends his regrets. Due to very important traditional activities, he could not be here personally.

The first thing I would like is a way to publicize that implementation is coming on these justice issues, to warn people that we're coming. I would like a PR announcement on DOJ letterhead that says "Don't mess with Native American women," like they say "Don't mess with Texas." Don't mess with Native American women because the federal government is watching you, and tribal courts will be enforcing laws against the non-Indians. Also translate it into Spanish. With an announcement like that, I could actually get this into the news media.

The second thing is that I hope that history never dims what has happened here with VAWA 2013. But as the pilot projects in special domestic violence criminal jurisdiction get underway, we need to be prepared for the fact that they will be challenged in court. The 19 pueblos had me take the Pueblo Land Acts Amendments of 2005 through Congress, so I know what this is going to cost. I estimate it will be from \$500,000 to \$2 million when it's all said and done, and the costs will be incurred by the first tribes that implement special jurisdiction in 2013. DOJ needs to make sure it has enough money in its coffers to cover this legal process.





The third thing is that you as federal agencies need to work on collaboration. Get on the phone and talk to each other, between the BIA and DOJ, for example. I had some wise people at Interior tell me that base support for tribal justice systems is \$50 million a year for each of the fiscal years 2011 through 2015. Why doesn't Justice talk with Interior and figure out how to get 3 minutes of the President's time to tell him he's got a sterile program here? Tribes won't be able to afford this unless they get money. Money can be gotten because it's already in the statutes, so let's get this money and see if we can make a dent in the abuse that VAWA 2013 is supposed to address.

### **Houlton Band of Maliseet Indians, Littleton, Maine**

#### ***Jane Root, Director, Maliseet Domestic Violence and Sexual Assault Program***

Chief Brenda Commander from the Houlton Band of Maliseet Indians provided written testimony with the following main points:

- I have served as tribal chief for the past 16 years. In my first term, we were awarded our first DOJ grant and established our domestic violence response program for victims that year. Our victim services program has grown from a one-person cubbyhole office to a fully staffed program, advocacy center, and emergency shelter. It now includes legal services, transitional housing, and sexual assault services for victims. Our domestic violence and sexual assault advocacy center has greatly increased our tribe's ability to keep victims safe. These years of experience inform our testimony today.
- Regarding a formula distribution, we cannot express strongly enough our objection. This change would decimate our current domestic and sexual violence advocacy services with the current funding that is available to tribes. Our current award is just shy of \$900,000 for 3 years, and our budget is tight—likely, everyone who seeks services will not receive them.
- Under all of the five proposed formulas, our tribe (with an enrollment of 1,466) would receive less than half the funding required to provide current services. We do not have the resources to make up the difference, so the impact would be to shut down our shelter, eliminate legal services, and not offer transitional housing, the very core of services that has made it possible for women and their children to find safety. This isn't acceptable to us. The non-tribal victim services program that receive their funding from federal monies funneled through the state are not asked to do this. There is flawed thinking in this proposal, and it should be taken off the table.
- The FVPSA formula grant program was referred to as a model for the OVW formula proposal, but the FVPSA formula is far from equitable. Formula grants to smaller tribes, which are the bulk of the grantees, have been cut by nearly 40% over the last 2 years. We are a FVPSA grantee, and our funding over the past 15 years has decreased from \$26,000 to \$14,000. This is not a model that should be followed. The formula needs to be changed to a higher base funding level before distribution is made on population. Fourteen thousand a year for a shelter doesn't do a whole lot. Currently, we depend of FVPSA funding to cover expenses that are not allowable under OVW grants to tribal governments.

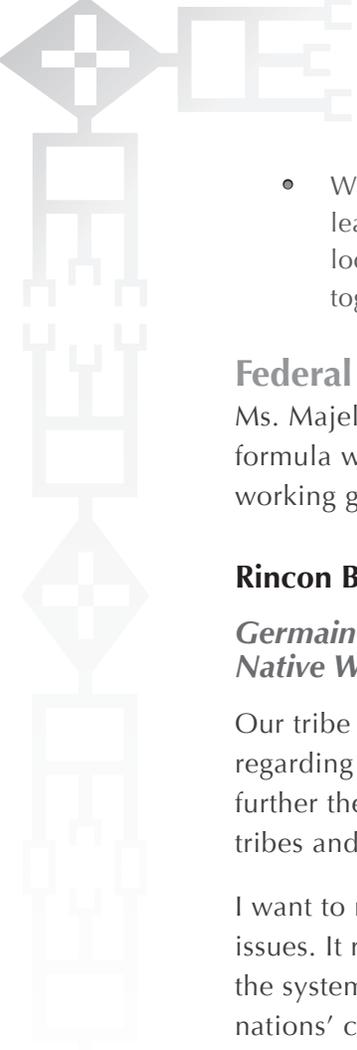


- It is incongruous to us that, while there is an ever-increasing demand for quality services from both OVW and FVPSA—including trauma-informed services, GLBTQ and elder-specific services, services for child witnesses, stalking, and teen dating violence—that there have been cuts and proposed cuts to funding. The flawed thinking in the formula proposal is that one advocate for each tribe could in any way provide for the safety of a community.
- We would like to see NCIC be accessible to all tribes. DOJ should assist in determining the details of how this will be accomplished.
- Regarding state STOP funds and tribe-state consultation processes, we can only address how the State of Maine has administered the STOP formula program. We have not been consulted with by the state. The Maine STOP administrator used to send an email invitation to tribes to attend a stakeholders meeting for the RFP, but this has not occurred for several years now. Two tribes in Maine applied for FY 2013 STOP funding, but neither one received it. Only in 2013 did Maine open their FVPSA and VOCA 10% set-aside to tribes and other culturally specific advocacy programs to apply. Every tribe should be given the opportunity to participate in a yearly consultation with their state STOP administrator as we do with federal administrators.
- Regarding the Tribal SASP funding, we don't have enough background on the question to determine what the advantages would be to tribes, but we echo the earlier concerns voiced about the confusion created when Native programs are combined with and referred to as women of color, minorities, and culturally specific programs.
- Regarding the new resources for improving the response to sexual violence, we are not familiar with these resources and would request more information and potentially webinars so that program staff can learn more.
- As a tribe in a settlement state, we are held hostage by the Maine Settlement Act of 1980, which specifically denies the Houlton Band of Maliseets certain sovereign rights such as having a tribal court and police. We ask that DOJ remedy this oversight by enacting amendments to VAWA to include tribes in settlement states as well as our Alaska Native sisters. We also request that DOJ take action now to work with settlement states to find remedies within state government to recognize the sovereign rights of tribal nations to hold accountable all people committing crimes on their land.
- The original date of the consultation (October 31, 2013) was in conflict once again with the United South and Eastern Tribes (USET) semi-annual meeting. We request that more effort be made to avoid scheduling conflicts like these.

As the Co-Chair of the USET Working Group on Violence Against Women, I will provide a short statement on behalf of USET.

- The USET VAWA working group was established in May 2013 to address the issue of domestic and sexual violence for Native women, which is of grave concern to the USET family of 26 tribes. The working group echoes the concerns of Chief Commander regarding formula distribution. Many of our tribes are small and have not benefitted from the formula methodology to the extent that is needed to eradicate violence from our communities.



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- We want to be meaningfully consulted with regarding these issues and desire to provide leadership in addressing future authorizations of VAWA. The USET VAWA working group looks forward to working with DOJ in meaningful partnership as we address these issues together.

## Federal Responses

Ms. Majel requested a copy of the complete transcript of the day's consultation for use by the formula working group. Ms. Edmo replied that the transcript would be made available to the working group.

### **Rincon Band of Luiseño Indians, Valley Center, California**

#### ***Germaine Omish-Guachena Lucero, Executive Director for the Strong Hearted Native Women's Coalition***

Our tribe mirrors a lot of the comments made by our fellow tribal leadership, especially regarding NCIC access. And we look forward to being part of the working group in discussing further the question of formula funding versus block grants, and how we get funding for tribes and for coalitions.

I want to read a quote from the Indian Law and Order Commission under jurisdictional issues. It really struck me because it was called *institutional illegitimacy*. It says: "Because the systems that dispense justice originate in federal and state law rather than in Native nations' choice and consent, tribal citizens tend to view them as illegitimate. These systems do not align with tribal citizens' perceptions of the appropriate way to organize and exercise authority."

It struck me because it kind of sums up everything that's been going on not only today, but for the last 7 years. In many of these situations, we are consulted after the fact, and so we're always having to clean up what's already been spilt. It should instead be preventative, working with tribes in order to make things happen in a connected way, and not an adversarial way.

Most of these issues come back to full faith and credit. I'm quoted as saying that in reports from past years, but I look back and many of those comments still haven't been met yet.

California was made a Public Law 280 state in 1953, without consent from the tribes or state at that time, and it has been a jurisdictional maze ever since. The state doesn't know where it stands, tribes have never known where they stand, and now the state has taken the notion that they are the ruler of everything and they can control what tribes do.

For tribal law enforcement agencies, because of the lack of full faith and credit, they have to rely on state law enforcement agencies to come in and do the police work that they're already qualified to do. Tribal officers are treated as though they aren't qualified to do the job, even though we have officers that are retired sheriff's department deputies or retired police officers. That needs to stop.



California is also requesting that we have a criminal justice summit for the state. Because we are a Public Law 280 state, we lack access to BIA funding, and for many of our tribes we rely heavily on OVW funding and funding through FVPSA. The proposal about VOCA funding is also appropriate, but we should be able to access BIA funding as well.

When states do not give tribal governments full faith and accountability, and they refuse to work with tribal governments, they are refusing to comply with federal mandates. If this is the case, they should be refused OVW funding until they do get in compliance. Tribes have to jump through hoops for our funding, and the state should be accountable as well.

We also need clarification on what it means when a state is required to be working in cooperation with tribes. They use our numbers and our information, but tribal coalitions cannot tap into that money because it's going to the state, and the state ultimately has control over what to do with it. So they certainly need to be held accountable for how they work with tribes.

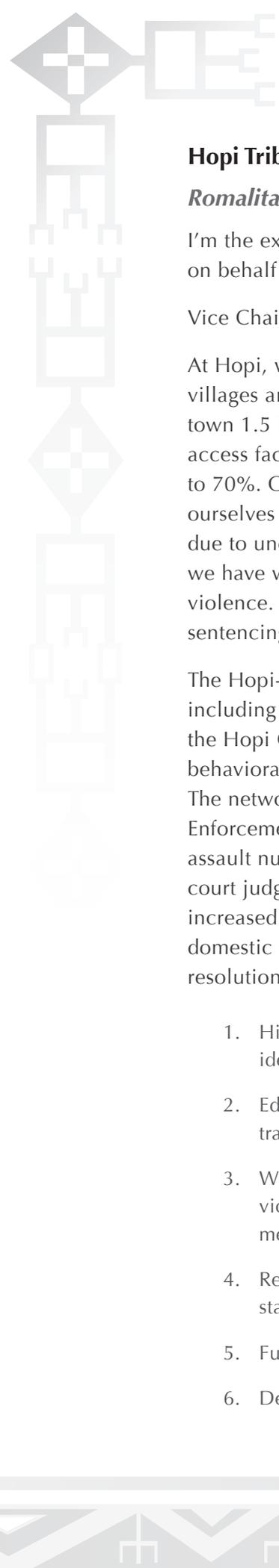
When we talk about offender accountability within our tribal communities, many of our perpetrators are from our communities. We don't want to throw our people away, so there needs to be help for them as well. Perpetrators may go to jail, but they come right back to the community. There need to be programs that help not only the perpetrator but the families, because many of these families do get back together. So the perpetrators need a place they can return home to and become whole again. We talk a lot about multigenerational trauma, and a lot of their perpetration is stemming from that. We need a way to stop it so it doesn't continue.

Approval from OVW on activities under our grant programs needs to happen more quickly. We have events or conferences or materials that we want to provide for our communities. And we have grant goals and objectives that need to be met. If I have a conference that I'm trying to plan, and I have to keep postponing it because I haven't gotten OVW approval, the turnaround needs to happen faster.

Streamlining of the solicitation process and of applications is always an issue. We have to jump through hoops of getting MOUs and whatnot, and it's hard because we know that most of these proposals won't get funded anyway. It seems like there should be an easier process.

Finally, I'd like to recognize the key role that tribal coalitions play in providing the links between agencies and tribal governments. Whenever there's a working group, a VAWA task force for NCAI, TLOA, or any of these agencies, coalitions must be part of these discussions, and they should be able to use their OVW funding to attend those sessions. For example, with the working group for the implementation of tribal courts, if my tribe is not part of the working group, I can't attend the sessions, even if I am the executive director of a tribal coalition. And if a tribe comes to me with questions on the work group or topic, asking me "How can you help?", and I haven't been part of those talks, how can I act as the link that coalitions are supposed to provide? Tribal coalitions need the flexibility to provide that for their tribal leaders and for the agencies that request assistance from them.





## **Hopi Tribe, Kykotsmovi, Arizona**

### ***Romalita Laban, Executive Director, Hopi-Tewa Women's Coalition to End Abuse***

I'm the executive director for the Hopi-Tewa Women's Coalition, and I'm providing testimony on behalf of Hopi Vice Chairman Herman G. Honanie.

Vice Chairman Honanie's testimony makes the following main points:

At Hopi, we have a large land base covering 1.5 million acres, which encompasses 12 villages and a community. We are a remote reservation with access to the nearest border town 1.5 hours away. We have an IHS clinic that provides outpatient services and is a critical access facility with limited behavioral health services. Our unemployment hovers at 60 to 70%. Our tribe has resided in this area since time immemorial, and we have sustained ourselves through ceremonies, religion, and our strong family clanship relationships. But due to unemployment, alcoholism and substance abuse, and a growing younger population, we have witnessed an increase in alcohol and substance abuse crimes, especially domestic violence. We have a tribal criminal code, but it is in need of development in the areas of sentencing and court proceedings to fit the crime.

The Hopi-Tewa Women's Coalition to End Abuse has created a positive network of services, including training and technical assistance with the Hopi Tribe's domestic violence program, the Hopi Guidance Center, which houses social services, child protective services, and behavioral health services including a substance abuse program and mental health services. The network also includes BIA law enforcement, Hopi tribal courts, the Hopi Tribes Resource Enforcement Services Program, the Hopi Health Care Center Indian Health Services sexual assault nurse examiner nurses, the Hopi Tribal Prosecutor's Office, and Hopi tribal appellate court judges. However, due to remoteness and distance coupled with a large land base, increased population, and limited staff amongst all system responders, emergency calls from domestic violence victims are sometimes not responded to in a timely manner. The only resolution is more federal funding. Funds would be used in the following manner:

1. Hire skilled staff in presenting problem-solving methods which are adept at recognizing, identifying, and responding to domestic violence.
2. Educate communities about domestic violence, sexual assault, teen dating violence, sex trafficking, and stalking.
3. Work with the Hopi Tribal Law Enforcement Task Team to develop stronger domestic violence codes, sentences, and fines, which would require training of the tribal council members in order to seek understanding and final informed approval.
4. Rework Hopi tribal law and order codes to address current issues such as electronic stalking and bullying.
5. Further develop established victims' rights and court processes.
6. Develop and establish a battered victims' shelter.



7. Work with Hopi tribal prosecutors and law enforcement entities to increase the understanding of the criminality of domestic violence.
8. Utilize Hopi and Tewa values and teachings, which demonstrate advocacy, healing, and prevention of domestic violence from a cultural programmatic perspective.
9. Increase communication and network resources with state, county, and national organizations which are familiar with violence against women programs, and ensure local tribal programs which are viable, current, strong, and sustainable in all program areas.

Regarding strengthening the federal response to domestic violence and related crimes, we certainly need federal backing when domestic violence crimes occur on the Hopi Reservation. U.S. Attorneys refuse to prosecute 67% of domestic violence crimes, according to a 2010 GAO study. Many victims are unwilling to report their perpetrator because the arrested perpetrator would probably stalk and assault the victim again.

Once domestic violence criminals are charged, if the crime is beyond a Hopi judicial hearing, cases are forwarded to the U.S. Attorney. At this level, the federal court needs to adjudicate cases as quickly as possible. I recommend that the U.S. Attorney establish scheduled visits with the aforementioned programs serving domestic violence victims. By this interaction, federal obligations based on law, treaty, and congressional act will be met.

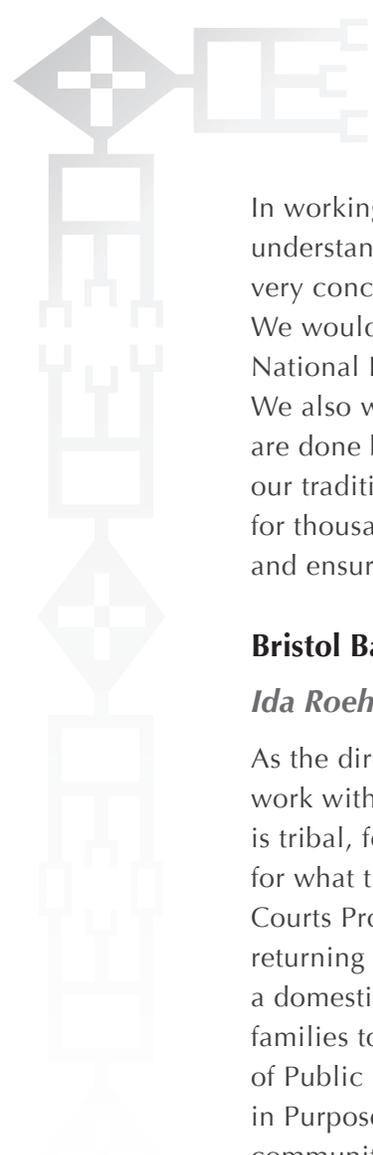
Regarding administering grant funds appropriated for tribal governments, I lean toward a formula-driven distribution with the provision that certain factors be considered, such as:

- remoteness and distance of the Hopi reservation to the nearest border towns,
- unemployment factors,
- young populations with limited job skills,
- the lack of battered victim shelters,
- the inability of courts to issue emergency order protection in a timely manner, and
- lack of strong domestic violence codes.

Hopi needs earmarked funding to address pressing domestic violence crimes, develop stronger codes, construct domestic violence victim shelters, and continue to develop stronger local partnership with local law enforcement, the prosecutor’s office, and gain full Hopi tribal council support. With federal funding, we will be better able to provide prevention and education programs for our Hopi and Tewa villages and other local entities such as schools and workplaces.

As the executive director of the Hopi-Tewa Women’s Coalition and a voice for our people, I want to ensure that it is clear that we are seeking to forge partnerships with other stakeholders, including alignment between victim service providers, social and cultural approaches to engagement, diverse media communication, and intentionally preparing tribal leadership to support the community.





In working with our tribal judges, I have heard a need for technical assistance. They need to understand how this pilot program could address habeas corpus, and jury selection. They are very concerned that Hopi court systems may not be able to hold perpetrators accountable. We would like to request as much aid as possible, from other organizations, including the National Indigenous Women's Resource Center and the Office on Violence Against Women. We also want to ensure that we provide local support, local control, and that all programs are done by Hopi, for Hopi. We want to ensure that our judges are Native and understand our traditional ways. The traditional systems reflect who we are and how we have survived for thousands of years in this land. Technical assistance must reflect who we are as a people and ensure that our voices are heard.

### **Bristol Bay Native Association, Dillingham, Alaska**

*Ida Roehl, Director of Community Services*

As the director of community services for Bristol Bay Native Association (BBNA), I get to work with up to 31 tribes. I am tribally minded, and I believe in good government, whether it is tribal, federal, or state. BBNA is engaged in nation-building, and we are holding education for what tribal governing authorities are through a grant from the Bureau of Justice Tribal Courts Program. We also have a Bureau of Justice Assistance prisoner reentry program to help returning prisoners to come back to our community in healthy, good way. BBNA also has a domestic violence program and sexual assault programs through OVW, which is helping families to reunite as well. My department interacts with the State of Alaska Department of Public Safety for a Village Public Safety Officer Program. We applied for COPS funding in Purpose Area 1 to provide adequate equipment for our VPSOs working out in the rural communities of Alaska.

I believe that the best for us to move forward would be education on what Public Law 280 does and doesn't do for states and tribes. This would be a big benefit. BBNA continues to build its tribal justice programs. We want to interact with the state department of corrections and want a tribal probation program. As well, we want to divert juvenile justice cases from state courts to tribal courts so that our young people don't become felons after a couple visits to the state courts.

### **Sac and Fox Nation, Stroud, Oklahoma**

*Orvena Gregory, Second Chief*

Current and future federal grants and funding need to be accessible for carrying out tribal needs under VAWA mandates for victim and perpetrator services, and in court, law enforcement, and detention services. Greater leeway in how the funds are used can make up for some of the current cutbacks in federal monies. An example is public defenders for indigent offenders and counseling for victims. And as others mentioned, we're very limited in our tribal officers right now, so if they have to be away from court to serve protection orders, we may not have an officer in court.



A second recommendation is that DOJ should take the federal lead in partnering with tribes to increase courthouse safety. The U.S. Marshals Service within the DOJ is tasked with federal courthouse security and would be a ready asset in assessing and enhancing tribal court security. Many tribal courthouses, such as the one in Sac and Fox, are in rural, remote, or isolated locations. Perpetrators are in close proximity to victims at the courthouses, and without adequate space or protections, the victims can be intimidated by their perpetrators and become too frightened to testify. To address this, increased funding for building construction and technical assistance is needed.

A third recommendation is to find monies for travel for the local FBI and assistant U.S. Attorneys. A year or two ago, the Oklahoma Western District U.S. Attorneys made an effort to visit the tribes and were successful in developing relationships and understanding tribal dynamics. With the cutbacks in the federal budgets, those efforts are fading. They need to be reinstated so as to better both sides' understanding of how to successfully prosecute federal VAWA crimes.

Tribes should be allowed to use their strengths in developing tribal forms of assistance and solutions for domestic violence. While there are commonalities among tribes, each has its own unique history that can be referenced only by the tribe in serving its members and the people in its jurisdiction. Just because we do it differently does not mean we do it unfairly or haphazardly.

Tribes have remarkably qualified individuals and sound systems for dealing with issues in their jurisdictions. Too often tribes have to begin by explaining how they really are capable of dealing with problems, being fair, and carrying out a solution. The occasional systematic failures of tribal institutions in Indian Country are no more frequent than those suffered at the state and federal levels, and can often be corrected much more quickly. VAWA created a mechanism for tribes to reassert a limited greater control over their territory, and this trend needs to continue and increase.

## **CLOSING AND ADJOURNMENT**

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Ms. Edmo reminded consultation participants that the record will remain open until January 15, 2014, and that written testimony may be submitted until then. In the closing shawl ceremony, Ms. Majel provided a traditional song and councilwomen and advocates removed the shawls from the empty chairs at the center of the room. Ms. Edmo adjourned the tribal consultation for 2013.

## **WRITTEN TESTIMONY RECEIVED**

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DOJ accepted written testimony on the day of the consultation and afterward through January 15, 2014. Some written testimony was read into the record by tribal representatives during the consultation event. If the written testimony listed has been presented in the consultation record, the reader is referred to the section of consultation testimony where this testimony is summarized. If the testimony, or portions of it, was not read into the record, main points are summarized below.





## **Absentee Shawnee Tribe of Oklahoma, Shawnee, Oklahoma**

The Absentee Shawnee Tribe of Oklahoma Domestic Violence Program provides a wide variety of services to victims and works closely with a number of tribal, state, and federal agencies to coordinate services. From September 2012 to September 2013, our program served over 290 victims. These numbers are increasing each year as we increase our outreach and awareness, and we know that these numbers do not reflect the alarming reality of the prevalence of domestic and sexual violence in Indian Country. Our tribe currently lacks adequate funding to meet the overwhelming need of victims throughout our jurisdiction. In particular, the shortage of shelter services leaves victims competing for limited bed space or having to travel outside the county for services.

While new initiatives encourage us to increase federal prosecution of crimes in Indian Country, most cases we are responding to are within state jurisdiction, and yet are still rarely prosecuted, providing no accountability for offenders. Oklahoma tribes are fortunate to have OVW support through the Tribal Coalitions Grant, which has provided continued funding for the Native Alliance Against Violence (NAAV), working with the 38 tribes in Oklahoma.

The Absentee Shawnee Tribe submits the following recommendations.

- Additional and consistent funding is needed for tribal shelters in Oklahoma. Currently there are only four Native shelters (Seminole, Chickasaw, Comanche, and Osage) serving the 38 Oklahoma tribes.
- Funding should be made available when it is awarded to eliminate gaps in funding and reduction in staff. Program budget issues should be resolved quickly as well, to avoid gaps in services. Additional staffing of the OVW Tribal Division, perhaps by way of regional OVW program managers, could address this issue and allow for greater communication.
- The special conditions relating to the OVW grants should be the same for all grantees—tribal and non-tribal. (We believe tribal programs to be the recipients of much harsher, time consuming, burdensome special conditions, compared to grants that are open to non-tribal applicants.)
- Many of the tribal shelters operating in Oklahoma saw drastic decreases in FVPSA funding, as the funding was based upon census data and the catchment area the programs serve.
- The failure of non-tribal law enforcement and courts to recognize valid tribal protective orders continues to be an issue, even though the Full Faith & Credit provision was included in VAWA 1995. In Oklahoma, women with tribal protective orders are advised to also apply for an Order of Protection in the neighbor state court. A mechanism to hold non-tribal law enforcement and courts accountable should be instituted.

Please see also the oral testimony from Absentee Shawnee Tribe on page 523.



### **Alaska Federation of Natives, Inc., Anchorage, Alaska**

A copy of the Alaska Federation of Natives, Inc. (AFN) Resolution 13-14, entitled “Protect Alaska Native Women,” was submitted as part of the record. A full copy of Resolution 13-14 can be found on the AFN website: <http://www.nativefederation.org/publications/resolutions/>

### **Anvik Tribe, Anvik, Alaska**

DOJ should immediately work with Congress to amend Section 904 of VAWA 2013, to remove the phrase “Indian Country” and give Alaska Native women the same protections as our Native sisters in Metlakatla and the lower 48 states. DOJ should also work with Congress to repeal Section 910.

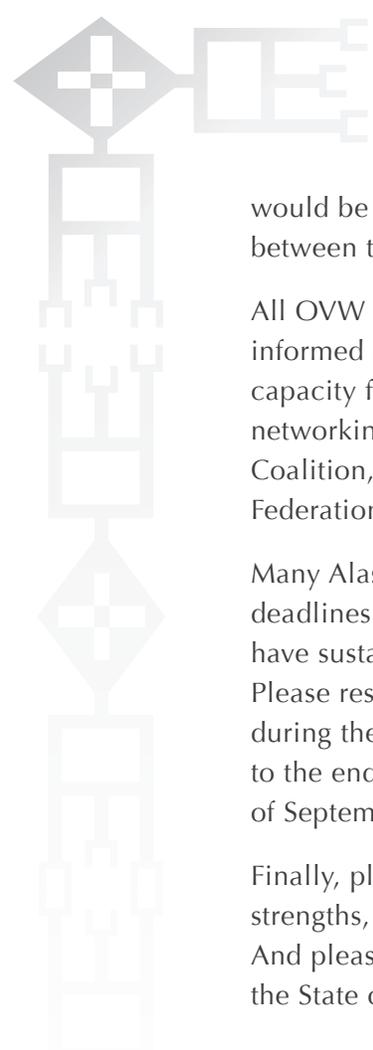
VAWA clarified the power of civil protection orders issued by tribal courts, and this is a partial solution for communities without state courts. But the Special Rule for the State of Alaska in Section 910 implies that Alaska tribal courts cannot issue or enforce protection orders. DOJ must issue written clarification immediately to the State of Alaska and all Alaska Native tribal governments to clarify that the protection orders issued by Alaska tribal courts are still enforceable under VAWA’s Full Faith and Credit provision. OVW must hold the state out of compliance with VAWA requirements and freeze state funds until Alaska complies in policy and in practice.

Regarding tribal sexual assault services, DOJ has rightly turned its attention toward the Bakken oil boom. However, in many different instances where the environment has been disrupted or exploited, Native tribes and Native women have experienced this disruption as violence. Alaska Native women have experienced violence as a result of the Trans-Alaska Pipeline and the effects of climate change, like permafrost thawing. OVW should consider dedicating Tribal Sexual Assault Services Program funds specifically to develop Native advocacy services in Alaska, given the high rates of sexual assaults and trafficking and severe need for advocacy for victims, especially in rural Alaska Native villages. IHS must require all contracted health care providers to ensure 24/7 access to sexual assault forensic examiners and medical care.

We see that Alaska Native tribal governments are not highly engaged with OVW and DOJ, despite recent efforts to streamline grant processes, because they lack the resources to apply for and administer discretionary federal funds. OVW and the federal government should work with corporations or federal agencies that can improve affordable Internet access in Alaska, especially in rural and remote villages. It is unconscionable that Alaska Native women experience violence and vulnerability because villages do not have advocates, grant writers, administrators, or lawyers. For all these reasons, OVW should implement formula-based funding that is not mired in a bureaucratic management process.

OVW should open an office in Alaska staffed by individuals who understand the unique legal and jurisdictional circumstances of Alaska Native tribes with the understanding that policies must be changed and designed to meet the specific needs of Alaska Native tribes given their histories and realities. OVW has staff in other parts of the country—why not Alaska? This





would be one way to ensure meaningful, consistent government-to-government consultation between the federal government and Alaska Native tribes.

All OVW training and technical assistance provided to Alaska Native tribes should be fully informed about legal and jurisdictional challenges, and should work with us to develop capacity for local village Native-based solutions. DOJ should also fund us to support networking and coalition building, as has been accomplished the Alaska Native Women's Coalition, the Yup'ik Women's Coalition, and the recent development of the Alaska Federation of Natives Task Force to Increase Native Women's Safety.

Many Alaska Native people live and practice our subsistence way of life, and when grant deadlines occur during these times, you are asking us to choose between activities that have sustained our survival for thousands of years and requirements of a discretionary grant. Please respect our life-affirming subsistence activities and do not schedule grant deadlines during these times. For Anvik and many interior tribal communities, these include mid-June to the end of July for fish, early August for berry picking activities, and late August to the end of September for hunting.

Finally, please find ways to institutionalize what you've learned about Alaska Native cultures, strengths, and challenges to minimize the teaching we must do when federal staff changes. And please do not turn away from what is happening to our women and children, even when the State of Alaska says it is the state's business only.

### **Cherokee Nation, Tahlequah, Oklahoma**

The Cherokee Nation makes the following recommendations on enhancing the safety of American Indian and Alaska Native women.

- Additional training funds to train tribal law enforcement on these issues, to supplement current limited training dollars.
- Grant funding for additional officers on a Project Safe Neighborhoods model, which has one officer dedicated to a particular community and has been an effective model in addressing gun violence and gang activity.
- A system like Oklahoma Victim Information and Notification Everyday (OK VINE) for tracking protective orders, which lets victims and advocates know when a protective order has been served.

We have three recommendations that would strengthen the federal response to these crimes.

1. Increase federal prosecution of misdemeanors, like domestic violence, which is largely unprosecuted by U.S. Attorneys in our area now, to send a message to abusers.
2. Provide regular detailed reports about the cases the U.S. Attorneys declined to file, so that our law enforcement can understand which issues are identified as problematic and learn to more effectively handle evidence or witnesses and build more effective cases in the future.



3. Require that U.S. Attorneys take a more expansive approach to which cases they do decide to prosecute, and avoid declining complex cases because they aren't a "perfect case."

All our recommendations on federal response involve our U.S. Attorney's office. While the Eastern District is generally responsive to our needs, we feel that addressing these few issues could significantly increase the safety of our communities.

Finally, Cherokee Nation has several recommendations on the administering of grant funds. We request more communication from our OVW program office, and we find that some grant management requirements are too burdensome and time-consuming. When we make requests for funding, the requests go into a database, and we don't hear back for weeks or months. If we had a quicker response time, or a less complicated process for accessing funds, we could better respond to community needs. If we heard back from OVW in a timelier manner, we would be able to secure additional outside funding for requests that are denied.

The restrictions on how the funds are used for transitional housing make it difficult to serve survivors who are in need. We can help them with shelter and take them for a grocery trip, but in the same trip we cannot address other needs like diapers and formula for small children, shampoo, or laundry detergent to wash the clothes she brought with her. We recommend that the approved uses of grant funds be expanded to include the purchase of basic household items, toiletries and personal hygiene items, and child care items.

### **Eight Northern Indian Pueblos Council, Inc., Ohkay Owingeh, New Mexico**

Gil Vigil, executive director of the Eight Northern Indian Pueblos Council (ENIPC), submitted a proposal for a domestic violence court for the Eight Northern Pueblos (Nambe, Ohkay Owingeh, Picuris, Pojoaque, San Ildefonso, Santa Clara, Taos, and Tesuque).

As a consortium of tribes, ENIPC is interested in exercising criminal jurisdiction over Indians and non-Indians by establishing a domestic violence court for all eight jurisdictions. At present, the eight northern tribal governments do not have the funding to implement their own criminal courts in each jurisdiction. The implementing agency for this proposal will be the PeaceKeepers Domestic Violence Program, an agency of ENPIC that provides domestic violence prevention and intervention services and has almost 20 years of experience in this area.

The outcomes of this proposal will include protection and supervision of offenders while providing direct services to victims, referral of serious crimes to the U.S. Attorney, offender accountability, the reduction of violence by giving offenders access to long-term skills that will allow them to reintegrate into the community, the prosecution of domestic violence crimes for Indian and non-Indian offenders, and training for all criminal justice personnel.

The proposal also included details on budget, job descriptions, and past experience.

See the related oral testimony from Nambe and other pueblos, beginning on page 33.







To improve the administration of VAWA grant programs, we have four recommendations.

1. OVW funds should be distributed on an annual formula basis. The use of peer reviewers is not cost-beneficial or effective, and competing with other tribes for essential services, such as public safety and justice, is inconsistent with the federal trust responsibility. In exchange for our homelands and resources, the federal government promised to provide for all tribes' essential needs, not just those tribes with grant writers, administrators, and lobbyists. To increase the baseline funding amount, VOCA funding should include a permanent tribal-formula set-aside, as has been repeatedly requested by tribes. OVW should clarify why tribal applicants must continue to justify our need for basic justice and safety services when states that receive annual DOJ funding for the same services are not required to do so. A solicitation or application where tribes fill in what their essential needs are would make clearer what elements are missing or not from applications.
2. Administrative requirements that are not applicable to Indian tribes should be removed from solicitations and awards (e.g., language about compliance with the Office of Civil Rights Equal Employment Opportunity Plan). When applications are too long or complicated, tribes will pass up funding opportunities because they are not worth the time it takes to apply. Additionally, recent changes like the inability to use grant funds for food and beverages at trainings or events creates another roadblock for us.
3. Tribal SASP should remain separate from the SAS CSP. To assist OVW in distributing these funds, OVW should consider pilot projects with currently funded tribal grantees or tribal coalitions to support the availability of sexual assault advocates for a consortium of tribes, such as in San Diego, Riverside, and San Bernardino counties, with more than 20 tribes.
4. All OVW training and technical assistance that tribes are required to attend should be redesigned to address the unique legal and jurisdictional circumstances of Indian tribes. In addition, training that addresses tribal challenges by region or state would be most useful. Over half of federally recognized tribes are in Alaska and California. OVW should support technical assistance and training specific to the 100 plus tribes in California, many of who have never accessed DOJ and OVW funding.

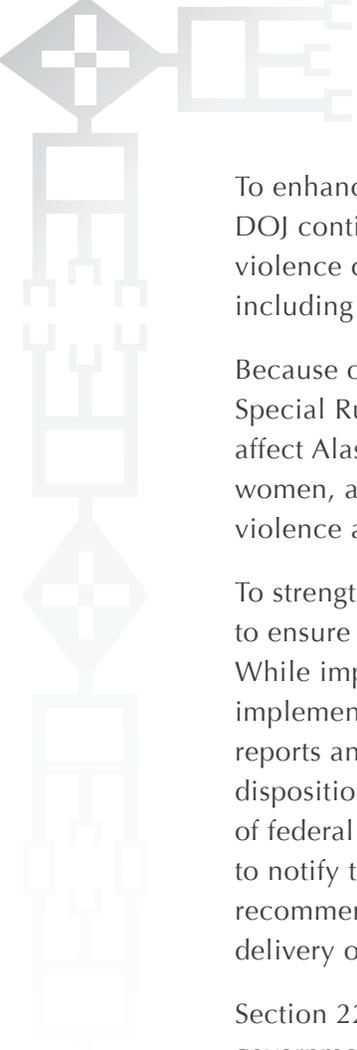
Regarding the implementation of VAWA, our tribe is committed to providing essential law enforcement services on our reservation and responding swiftly to crimes. But without a fully functioning tribal justice system, and without the ability to hold all offenders (Indian and non-Indian) accountable, our ability to protect our community will be lacking. We need the support of DOJ and OVW to develop and maintain essential services. We look forward to the Inter-Tribal Working Group that was formed to implement VAWA 2013 Section 904, and to learning about how other tribes are holding all offenders accountable.

### **National Congress of American Indians, Washington, DC**

NCAI's primary recommendations relate to protecting Alaska Native women and ensuring tribal law enforcement access to NCIC databases.

For the three consultation topic areas, NCAI has the following comments.





To enhance the safety of American Indian and Alaska Native women, NCAI recommends that DOJ continue its formal support as participating tribes move to implement special domestic violence criminal jurisdiction on an accelerated basis during the pilot project phase, including facilitating communications between U.S. Attorneys and tribal prosecutors.

Because of the unique jurisdictional situation in Alaska, and because of VAWA Section 910's Special Rule for Alaska, VAWA 2013's jurisdictional-based statutory amendments do not affect Alaska Native villages. We ask that DOJ work with Congress to protect Alaska Native women, as is described in the recent NCAI Resolution REN-13-006, and to make addressing violence against Native women a top priority in Alaska.

To strengthen the federal response to violence against women crimes, NCAI recommends to ensure the full implementation of the Tribal Law and Order Act of 2010 (TLOA). While implementation has begun, we recommend that DOJ ensure the full and effective implementation of all of TLOA's provisions, particularly those pertaining to disposition reports and reassumption of federal concurrent jurisdiction in PL 280 states. The annual disposition reports, described in section 212 of TLOA, provide data on all alleged violations of federal criminal law in Indian Country that were referred for prosecution, and functioning to notify tribal officials when a U.S. Attorney has declined to prosecute certain cases. NCAI recommends that DOJ release these disposition reports immediately and ensure a timely delivery of them in the future.

Section 221 of TLOA allows tribal governments in PL 280 states to request that the federal government exercise concurrent jurisdiction over reservation crimes, with consent by the Attorney General. On March 15, 2013, DOJ granted such a request by the White Earth Nation, and we understand that other tribes have submitted requests. NCAI recommends that DOJ act on these pending requests as soon as possible, and to provide an anticipated timeline and an explanation for any delays.

Regarding the administration of funds appropriated for tribal governments and tribal programs, NCAI appreciates DOJ's attempts to streamline tribal funding, particularly the creation and refinement of the Coordinated Tribal Assistance Solicitation (CTAS) and DOJ's continued support for a flexible 7% tribal set-aside from all discretionary OJP programs. But we are concerned that OJP has not initiated consultation with tribes on how to achieve the required flexibility, and we request that it be scheduled within the next 6 months. We also feel strongly that tribes should be eligible for VOCA funds.

Language in the 2014 omnibus appropriations bill appears to grant this flexibility in administering appropriated funds. NCAI requests that OJP move forward with scheduling the required consultation, and to provide an analysis of how they interpret the flexibility and authority for tribal assistance under the FY 2014 appropriations bill.

Finally, ensuring NCIC access for tribes has been an ongoing difficulty, and we strongly encourage Attorney General Holder to make this an administration priority. We recommend that the Attorney General establish a high-level internal working group tasked with developing solutions to this problem. Addressing this problem is critical to the implementation of VAWA 2013.



NCAI also offered comments on the framing paper questions provided by OVW.

Regarding formula distribution of OVW funds, NCAI supports OVW's efforts to explore block grant funding for the tribal governments program. We support OVW Director Bea Hanson's announcement of the creation of a working group, and stand ready to actively participate in such a group.

Regarding OVW's mandate in VAWA 2005 to create a national tribal protection order registry system, NCAI understands that NCIC has a protection order component and that creating a separate tribal protection order registry would be duplicative. Tribal leaders have commented that a registry would not be as necessary if NCIC access issues at the state level were remedied. While NCAI understands the overlap between the VAWA 2005 mandate and the existing national registry under SORNA, we believe that this intersection should not stop the creation of the national tribal registry—a potentially lifesaving development for tribes in PL280 states that are ineligible for participation under SORNA.

Tribal protection orders must be able to be accessed and verified by other state and local jurisdictions, and to address this need, a tribal protection order database should be integrated with other existing databases. To increase the number of tribal protection orders and criminal convictions submitted to NCIC, accessibility issues with NCIC must be addressed. Reprogramming of funds allocated under VAWA 2005 for the registry would not address the need that Section 905(b) was created to address, and we continue to recommend the creation of a high-level working group to address NCIC access, and to see whether these funds could be used to fix NCIC challenges. We are particularly interested in learning whether these dollars could be used to build a tribal CJIS Systems Agency (CSA) or to expand tribal use of the DOJ Justice Management Division's CSA.

Regarding STOP grants to states, NCAI recommends to recognize that in states with Indian tribes, often underserved and tribal populations overlap. States should engage in real dialogue with underserved communities and focus on solutions. For related consultation requirements, states should focus on substantive goals and respect tribal sovereignty and the federal trust responsibility. In a nation-to-nation relationship, tribal consultation should be defined as a process of decision-making that works in a cooperative manner toward reaching a consensus before a decision is made or action is taken.

On the question of Tribal SASP and SAS CSP, NCAI supports the recommendation to combine the two into a single solicitation, so that awards can be made to tribal nonprofits. Ideally, NCAI would recommend that a tribal specific solicitation be developed and released rather than combining Tribal SASP with SAS CSP. We have some concerns that this consolidation may result in a decrease in tribal funding through the SAS CSP and urge OVW to examine this in the award decision-making process if a single solicitation is issued.

As part of their testimony, NCAI submitted a copy of NCAI Resolution #REN-13-006, which was adopted at NCAI's 2013 Midyear Session, held June 24 through 27, 2013. The full text of this resolution is available here: <http://www.ncai.org/resources/resolutions/protect-alaska-native-women>







- Funding American Indian and Alaska Native women domestic violence shelters off-reserve that offer cultural services and resources. Two of every five calls received by NWIN are clients seeking cultural programming off-reserve. In general, these women refuse to stay in non-Native shelters and prefer to stay on the streets.
- Funding culturally-based recovery homes for Native women with children. Only two such programs exist in the United States. Women frequently leave recovery homes and treatment programs to return to be with their children.
- Funding Native American and Alaska Native female mental health counseling programs specializing in PTSD, borderline personality disorders, and so on. NWIN has experienced a severe lack of Native American mental health services, which are sorely needed for women suffering from homelessness, sexual abuse, domestic violence, and addiction.

### **Pauma Band of Mission Indians, Pauma Valley, California**

We support the change from a competitive grants program to an annual formula grant program. Competitive funding is inappropriate, given the federal trust responsibility to Indian tribes, as well as the existing epidemic of violence toward Indian women. We also have specific changes to recommend for the Grants to Tribal Governments program. The competitive process creates instability in tribal programming. Receiving funding one year and not the next year does not achieve the long-term goals of the grant program or VAWA itself, and it does not let us be consistent and responsive to women we are attempting to serve. This instability is also a barrier to maintaining and expanding our tribal justice system response to violence against Native women. Without consistent year-to-year funding, strategic planning, training, and retention of personnel is almost impossible. Under an annual formula program, minimally, key employees would be secure in their positions from year to year.

In a competitive process, tribes are ranked against one another, ignoring that some tribes are not able to hire grant writers, and that our realities and cultural concerns may not be understood by peer reviewers. The competitive process is a Western model that places the evaluation of individual peer reviewers over a tribe's history of thousands of years, and their own self-knowledge about what programs are most appropriate to address the needs of their women. The competitive process also creates delays in funding. States receive funding under formula-based programs within months of congressional appropriations, while tribes often wait for months, or even into the next fiscal year, causing gaps in services.

The staffing of the OVW Tribal Unit is not adequate. Grant managers have been responsible for over 100 grants, creating barriers to accessing funds and implementing projects. Furthermore, there is no plan for the future to increase staffing to adequately administer the program.

Finally, formula funding would mean that all OVW funding is always awarded, when currently it may not be, based on the outcomes of the competitive process. A formula process would also offer significant savings on the cost of peer review, leaving more funds that can be distributed to tribes to address their needs. We also specifically recommend to decrease non-essential reporting and other administrative requirements associated with grants. This





would increase local self-governance, allowing tribes to use funds in the manner most appropriate for their needs.

We strongly support the creation of a national tribal protection order registry. Fundamentally Indian tribes in California, Alaska, and other areas are locked out of entering their tribal orders of protection in the NCIC registry. The creation of a tribal registry was mandated in VAWA 2005, and 8 years later, there is no registry. The time has come for the Attorney General to either create the national tribal registry, or to intervene immediately to resolve problems with state governments that refuse to acknowledge and enter tribal orders of protection. We cannot support DOJ reprogramming the budget authorized to create this lifesaving national tribal registry while our tribe continues to have problems with the county related to accepting and entering tribal protection orders.

To increase the safety of Luiseño and California Indian women, we recommend:

- That the DOJ, DOI, and HHS host in partnership with California Indian tribes a VAWA 2013 Summit to address VAWA implementation issues, and
- That the DOJ act to clarify that federal VAWA felonies committed on tribal lands will be prosecuted in coordination with California Indian tribes.

We also request that DOJ, DOI, and HHS review federal funding streams to California to ensure that Indian tribes are not being denied access to this funding or to the funding process. We request specifically that OVW review California's STOP plan to ensure that state coordination with Indian tribes is a reality. If OVW finds that California, or any state, is not in compliance with VAWA conditions, we recommend that OVW require the state to develop an action plan to achieve compliance and/or freeze OVW funding to that state.

Regarding the Tribal SASP program, the amount currently available to provide advocacy for Native women is totally inadequate, and we cannot support merging these precious dollars into a non-tribal specific program.

Finally, we strongly support the resolution passed by AFN to address violence against Alaska Native women, and we request that DOJ and HHS do everything possible to assist with these efforts. NCAI has also unanimously enacted a resolution that provides concerns and recommendations that Indian tribes have regarding the epidemic levels of violence against Alaska Native Women.

Please see also the Pauma Band's oral testimony on page 41.

### **Pueblo of Santa Clara, Santa Clara, New Mexico**

The Pueblo of Santa Clara Tribal Council submitted the full text of Resolution No. 2013-53, entitled "Supporting Full Implementation of the Violence Against Women Act of 2013 As Soon As Funding Is Secured."



The resolution explains that Santa Clara has elected to exercise tribal jurisdiction over non-Indians who commit crimes of domestic violence against Indians, and that VAWA 2013 requires the guarantee of rights to defendants that include the implementation of court procedures not previously provided by the tribal court. Because no funding is supplied through VAWA, the Council resolves that the Pueblo shall make every effort to implement VAWA 2013, but full implementation shall not be authorized until funding for the guaranteed rights and court procedures is secured.

See also the Pueblo of Santa Clara's oral testimony on page 43.

### **Ute Indian Tribe, Fort Duchesne, Utah**

VAWA reauthorization is a major victory, but there are still areas the Ute Indian Tribe wants to address in terms of tribal criminal jurisdiction. Under VAWA, the offender must fit within a narrow definition to be subject to a tribe's exercise of criminal jurisdiction.

We need protections for situations when our reservations are inundated with non-Indians due to industry or natural resource development, as is occurring on the Uintah and Ouray Reservation. We need to address criminal jurisdiction over these non-Indians who see the current situation as a loophole because they are not technically dating or domestic partners with any of our members.

The Ute Tribe supports the federal prosecutors program, but is concerned that there is no clear delineation of when tribal resources will be used for federal prosecution activities. In other words, if a tribe participates in the Tribal Special Assistant United States Attorney (SAUSA) program, the tribe would essentially be funding a federal prosecutor. This concern must be addressed before the Ute Indian Tribe will consider participating in the SAUSA program. Our tribe also encourages the creation of a federal unit within the United States Attorneys' offices that are devoted solely to Indian Country.

The Ute Tribe is the recipient of a CTAS grant that we are using to partially fund a new justice center on our reservation. The complexities of federal administrative oversight pose significant challenges to this task. Additional funding is necessary to alleviate the financial burden on tribes that inevitably are called on to make up the difference in these projects. This is a major financial burden, especially in light of the current sequestrations and contract support cost shortfalls.

See also the Ute Tribe's oral testimony on page 15.

### **Village of Emmonak, Emmonak, Alaska**

Emmonak attended the 2013 Alaska Federation of Natives (AFN) Convention in Fairbanks and strongly supported passage of the resolution to address violence against Alaska Native women (AFN Resolution Number 13-14). We encourage DOJ and HHS to support the implementation of this resolution.





VAWA's consultation process has been problematic, preventing Alaska tribal leaders from attending. Recommendations for the annual consultation include:

- complying with VAWA 2013 by giving 120 days notice to Indian tribes on the time, date, and location of the annual OVW consultation;
- planning the consultation 1 year in advance in consultation with Alaska Native tribes to ensure meaningful participation by tribal leadership and to avoid conflicts with subsistence gathering seasons;
- extending the consultation time by 1 additional day (after consulting with Alaska tribes) if the time allocated to tribal leaders to express their statements, concerns, and questions is insufficient;
- requiring DOJ to develop an action plan that addresses concerns and recommendations of tribal leaders and make it available to Alaska tribes within 90 days of the consultation; and
- conducting and funding separate annual consultations in the State of Alaska with Alaska Native tribal leadership and federal representatives including but not limited to DOJ, BIA, IHS, HHS, and OJP.

Emmonak does not support competitive grant funding, and instead recommends that DOJ funding be allocated on a formula basis. It is the responsibility of the federal government to assist all Indian tribes, not just some tribes. Most Yup'ik villages in our region have never received a grant under the Tribal Government program. Recommendations related to funding include:

- allocating separate, annual, noncompetitive funding to Alaska Native tribes for services specifically targeted to the needs of rural Alaska communities;
- recognizing and respecting traditional cultures and values by allowing funding recipients to expend funds on food and beverages at OVW-funded meetings and conferences;
- having FVPSA work with the Yup'ik Women's Coalition and other long-time Native women advocates to create, support, and fund an Alaska Native Resource Center to Increase the Safety of Native Women, as identified in VAWA 2010;
- ensuring that training and technical assistance providers have expertise in working with Alaska Native tribes and villages, and address Alaska Native issues and jurisdictional complexities; and
- establishing an "above-the-cap" tribal set-aside under VOCA to reduce the current disparities in allocation of VOCA funds.

There is a significant lack of infrastructure to address safety, prevention, and other domestic violence issues in Alaska Native villages. The State of Alaska has failed to provide law enforcement and judicial services to villages, and relying on Alaska state troopers poses many challenges to an adequate and timely law enforcement response. This means that the resources of the community are often the only thing standing between a woman and batterers or rapists. Recommendations regarding law enforcement include:



- recognizing that Alaska Native villages are able to design and carry out local and culturally relevant solutions to address the lack of law enforcement in villages;
- providing training and funding for village police officers and village public safety officers who can serve as the immediate responders to crimes in villages; and
- working closely with Alaska Native tribes and villages to address habitual and serial offenders who continue to walk free in the villages.

Because of their remote location, difficulties in consistent access to phone and internet services especially in severe weather, and the difference in time zone, Alaska villages lack meaningful access to OVW program and administrative staff. Recommendations to improve staffing and access include:

- establishing a regional office in Alaska staffed by personnel with demonstrated expertise on issues unique to Alaska Native villages;
- requiring OVW staff to receive basic training on VAWA, federal Indian law, current presidential orders regarding Indian tribes, and the application of VAWA federal crimes and grant programs to Indian tribes and Alaska Native villages;
- Establishing and adequately funding a mandatory threshold for the day-to-day staffing level of the tribal unit; and
- Developing a policy granting extensions of time for submission of grant funding applications when unforeseen and inclement weather significantly impacts Internet, fax, and telephone services.

Emmonak strongly recommends that the FY 2014 Tribal Sexual Assault Services Program solicitation proposal remain a separate tribal solicitation, not to be combined with the Sexual Assault Services Culturally Specific Program (SAS CSP). Indian Tribes as sovereign nations must not be confused with cultural groups within the U.S. population. To combat the current crisis of violence against Alaska Native women, Emmonak recommends:

- Developing specific programming and technical assistance including village Sexual Assault Response Teams (SART) to assist Alaska Native villages and service providers in responding to sexual assault.
- Convening and launching a long-term initiative to increase awareness of and address the high rates of sexual assault against Alaska Native women within Alaska.
- Allocating funding and culturally appropriate resources for Alaska Native women.
- Amending the IHS policy to provide sexual assault training for health aides in Alaska Native Villages. Currently, the only medical center providing sexual assault forensic exams is the Alaska Native Medical Center located in Anchorage, AK, hundreds of miles away from remote villages.
- Providing adequate funding to train village police officers and village public safety officers on sexual assault including interviewing the victim, obtaining and securing evidence, documenting injuries, and other procedures.





Many living in Native villages speak our Native languages, but state employees and urban service providers do not have interpreters on staff, severely hindering women's access to protection and support services from such agencies. To address language accessibility, Emmonak recommends:

- Requiring VAWA-funded grantees in Alaska to hire or have available staff who are Alaska Native and who speak the language and understand the culture of the population of Alaska Native women to be served.
- Consulting with Alaska Native grantees about revising the application process to ensure fairness towards Alaska Native-speaking applications in the grant application and award process. Take into consideration in the grant application process for Alaska Native grantees that often their primary language is a Native language.

Finally, regarding Section 910 of VAWA 2013, we cannot fathom why Alaska Native women are not afforded the same human and legal rights as women in the lower 48 states. Section 910 serves as a further example of the incredible barriers that Alaska Villages face in providing for the safety of Alaska Native women. We recommend that Section 910 be repealed. In addition, we support building alliances to increase the voice of Alaska Native survivors, advocates, and tribal leaders at the village, state, and federal levels.

### **Washoe Tribe of Nevada and California, Gardnerville, Nevada**

The Washoe Tribe does not support the proposal to shift from a competitive funding process to a formula funding process. The safety of Native women would be jeopardized should the Office of Violence Against Women distribute grant funds according to a formula based on population numbers or numbers served. A smaller population does not directly correlate to a decreased need for funding. In the case of the Washoe Tribe, we must negotiate problems created by distances over a large reservation and the fact that detention facilities are very far away. Based on OVW's calculations, the amounts in the proposed alternatives would be insufficient to operate an effective program. Additionally, in our tribe's experience, formula funding never increases—in fact, it often decreases while the cost of providing services is going up. Formula funding would only work if there is a sufficient base amount to effectively fund all programs. Right now, many tribes rely on multiple grants to fully fund their efforts.

The current means of detaining prisoners is an inexcusable waste of resources and decreases the safety of Native women and staff. Because of the distance to correctional facilities, law enforcement officers face a round-trip drive of 60 to 120 miles. The time for this transport also makes it impossible to obtain evidentiary breath testing or blood draws for felony DUIs within the required 60-minute window. This transport time also removes officers from their assigned beats for hours or an entire shift. The Bureau of Indian Affairs has the responsibility to transport prisoners but does not. OVW must work with the tribe and BIA to resolve this situation.

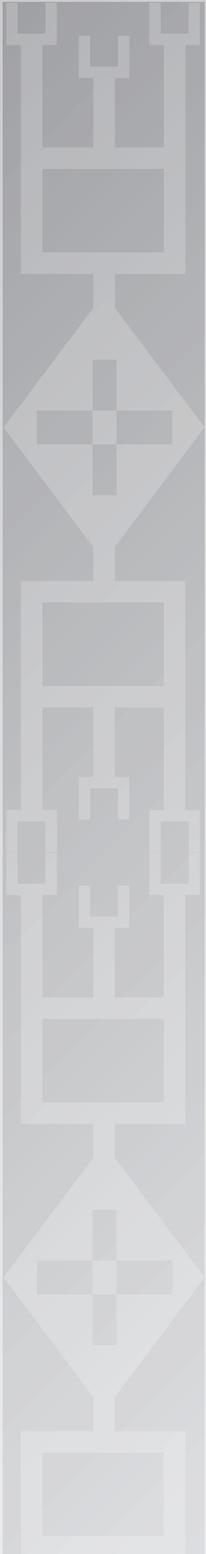
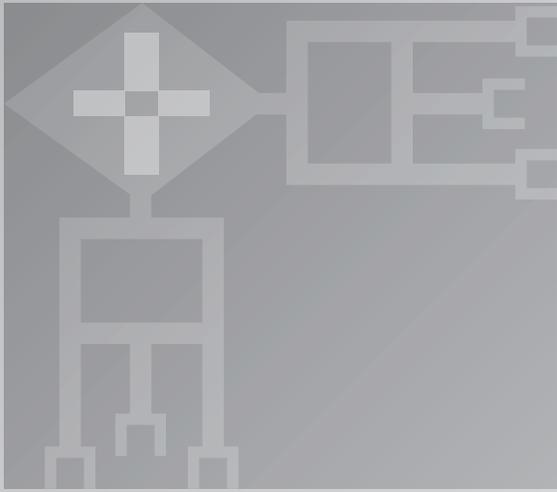
Provisions of the Tribal Law and Order Act, which would have increased the safety of Native women, have not been implemented in Washoe country. Currently, the TLOA is nothing more



than an unfunded federal mandate. In addition, dispatch services were specifically identified as BIA Office of Justice Services (OJS) responsibility. How is OJS delivering that service? Washoe Tribe currently funds its own dispatch services, using funds that would be better applied to hire law enforcement officers and provide services to victims and their families. We request information and technical assistance so that OJS can begin to fund and deliver these services.

Please see also Washoe Tribe's oral testimony on page 28.







**APPENDIX 1:**  
CONSULTATION PARTICIPANTS

*Working Together to End the Violence*

## 2014 CONSULTATION PARTICIPANTS

### Tribal Representatives

NAME	TITLE AND ORGANIZATION
Jacqueline Agtuca	National Indigenous Women's Resource Center
Natasha Anderson	National Congress of American Indians
Beatrice Arakawa	Lower Elwha Family Advocacy, Lower Elwha Klallam Tribe
Russell Attebery	Karuk Tribe of California
Steve Aycock	National Council of Juvenile and Family Court Judges
Rebecca Balog	The Women of Color Network
Brooklyn Baptiste	Council Member, Nez Perce Tribe
Nita Battise	Vice Chairwoman, Alabama-Coushatta Tribe of Texas; Violence Against Women Working Group Member, United South and Eastern Tribes
Twila Begay	University of Washington
Sharon Begay-McCabe	Division of Social Services, Navajo Nation
Alyssa Ben	Mississippi Band of Choctaw Indians
Bob Bryant	Penobscot Nation
Tanya Busby	Karuk Tribe of California
Henry Cagey	Lummi Indian Business Council
Ray Chapparosa	Los Coyotes Band of Indians
Shane Chapparosa	Los Coyotes Band of Indians
Frances Charles	Tribal Chair, Lower Elwha Klallam Tribe



NAME	TITLE AND ORGANIZATION
<b>Phillip Chimburas</b>	Fredericks Peebles and Morgan, LLP
<b>Thomas Christian</b>	Tribal Executive Board Member, Fort Peck Assiniboine and Sioux Tribes
<b>Brian Cladoosby</b>	President, National Congress of American Indians; Swinomish Tribe
<b>Charles “Bo” Colbert</b>	Chief of Staff, Muscogee (Creek) Nation
<b>Daniel Collins</b>	Chairman, Shinnecock Indian Nation
<b>Brenda Commander</b>	Chief of the Houlton Band of Maliseet Indians
<b>Cherie Dakota</b>	Domestic Violence Program Director, Keweenaw Bay Indian Community
<b>Alisa Davis</b>	Seminole Nation of Oklahoma
<b>Virgina Davis</b>	National Congress of American Indians
<b>Vera Dawsey</b>	Executive Committee Member, Absentee Shawnee Tribe of Oklahoma
<b>Frank Demolli</b>	Chief Judge, Pueblo of Santa Clara
<b>John Dossett</b>	National Congress of American Indians
<b>Roman Duran</b>	Tribal Judge, Pueblo of Nambe
<b>Anita Fineday</b>	Casey Family Programs
<b>Nikki Finkbonner</b>	Victims of Crime Office, Lummi Nation
<b>Kirk Francis</b>	Penobscot Indian Nation
<b>Robin Gann</b>	Institute for Native Justice
<b>Suzanne Garcia</b>	Assistant General Counsel, Washoe Tribe of Nevada and California; Designated Representative, Washoe Tribe

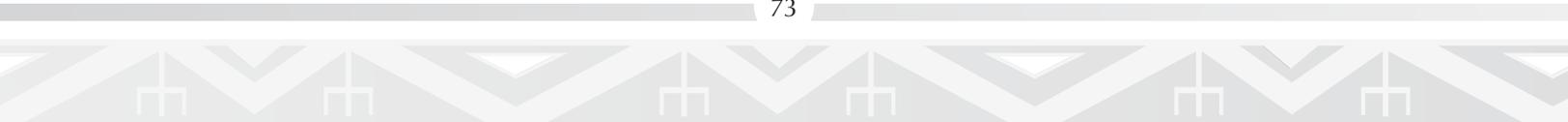




NAME	TITLE AND ORGANIZATION
Cherrah Giles	Department of Community and Human Services, Muscogee (Creek) Nation
Tresa Gouge	Seminole Nation of Oklahoma
Orvena Gregory	Second Chief, Sac and Fox Nation
Chia Halpern Beetso	Tribal Law & Policy Institute
Leonard M. Harjo	Principal Chief, Seminole Nation of Oklahoma
Sheila Harjo	First Lady of the Seminole Nation of Oklahoma, Hecete Band Chief
Terri Henry	Chairwoman, Eastern Band of Cherokee Indians; Co-chair, NCAI Task Force on Violence Against Women
Gordon Howell	Fredericks Peebles and Morgan, LLP
Gene "Bear" Hughes	Council Member, Spokane Tribe
Bruce Ignacio	Councilman, Ute Indian Tribe
Carrie Imus	Hualapai Human Services
Christopher Ironroad	Sonosky Firm
Andrea Johnson	Lummi Nation
Paula Julian	National Indigenous Women's Resource Center
Lela Kaskalla	Council Member, Nambe Pueblo
Rod Kaskalla	Domestic Violence Coordinator, Pueblo of Nambe; Tribal Member, Pueblo of Zuni
Gordon Kenny	Mapetsi Policy Group
Lawrence "Jace" Killsback	Council Member, Northern Cheyenne Tribe

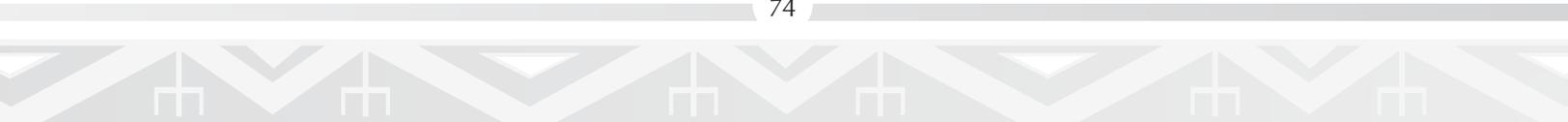


NAME	TITLE AND ORGANIZATION
<b>Romalita Laban</b>	Executive Director, Hopi-Tewa Women’s Coalition to End Abuse; Designated Representative, Hopi Tribe
<b>Susan LaFernier</b>	Keweenaw Bay Indian Community
<b>Debra Lekanoff</b>	Swinomish Indian Tribe
<b>Martin Loesch</b>	Swinomish Indian Tribe
<b>Daniel Lucero</b>	
<b>Juana Majel Dixon</b>	Traditional Legislative Council Member, Pauma Band of Luiseño Indians; Co-chair, NCAI Task Force on Violence Against Women
<b>Patty McGeshick</b>	Fort Peck Assiniboine and Sioux Tribes
<b>Mary Ann Mills</b>	Chair, Kenaitze Indian Tribe
<b>Joel Moffett</b>	Vice Chairman, Nez Perce Tribe
<b>Pamela Moore</b>	American Indian Resource Center
<b>Richard Morsette</b>	Chippewa Cree Tribe
<b>Eva Nielsen-King</b>	Native Village of South Naknek
<b>Jaylene Nyren</b>	Kenaitze Indian Tribe
<b>Sammi Offield</b>	Karuk Tribe of California
<b>Tina Olson</b>	Mending the Sacred Hoop
<b>Germaine Omish-Guachena Lucero</b>	Executive Director, Strong Hearted Native Women’s Coalition, Inc.; Designated Representative, Rincon Band of Luiseño Indians
<b>Deborah Parker</b>	Vice Chairwoman, Tulalip Tribes
<b>Jeremy Patterson</b>	Fredericks Peebles and Morgan, LLP





NAME	TITLE AND ORGANIZATION
Theresa Pouley	Tulalip Tribes
May Preston	San Juan Southern Paiute Tribe
Arlen Quetawki	Governor, Pueblo of Zuni
Rose Quih	National Indigenous Women’s Resource Center
Brian Quint	Navajo Nation Washington Office
Lorrienne Rawson	South Naknek Village
Ida Roehl	Director of Community Services, Bristol Bay Native Association; Tribal Judge, Curyung Tribal Council
Jane Root	Director, Houlton Band of Maliseet Indians Domestic and Sexual Violence Advocacy Center; Interim Executive Director, Wabanaki Women’s Coalition
Dorma Sahneyah	Board Member, Hopi-Tewa Women’s Coalition to End Abuse; National Indigenous Women’s Resource Center
Kirk Saunooke	Tribal Court Judge, Eastern Band of Cherokee Indians
Theresa Sheldon	Tulalip Tribes
Jason Smith	Tribal Prosecutor, Eastern Band of Cherokee Indians
Darwin St. Clair, Jr.	Chairman, Eastern Shoshone Tribe
Kimberly Stephens	Domestic Violence Program Director, Absentee Shawnee Tribe of Oklahoma
Tracie Stevens	Coast Salish Consulting, LLC
Marie Stone	Mashpee Wampanoag
Kelly Stoner	Tribal Law and Policy Institute
Lisa Switch	Tribal Treasurer, Kiowa Tribe of Oklahoma





NAME	TITLE AND ORGANIZATION
<b>Adam Tabor</b>	Akin Gump Strauss Hauer & Feld
<b>Betty Thunderhawk</b>	Board Member, Hopi-Tewa Women’s Coalition to End Abuse
<b>George Tiger</b>	Principal Chief, Muscogee (Creek) Nation
<b>Tom Tremaine</b>	Presiding Judge, Kalispel Tribe of Indians; Designated Representative, Kalispel Tribe of Indians
<b>Brenda Tsosie</b>	Navajo Nation Division of Social Services
<b>Carmalita Tucson</b>	Coalition to Stop Violence Against Native Women; Tribal Member, Pueblo of Zuni
<b>Frederick Vigil</b>	Former Governor, Pueblo of Tesuque; Albuquerque Area Native American Tribal Advisory Committee on Behavioral Health; Eight Northern Indian Pueblos Council, Inc.
<b>JoAnn Whatoname</b>	Hualapai Human Services
<b>Hallie White</b>	Southwest Center for Law and Policy
<b>Ted Whitford</b>	Chippewa Cree Tribe
<b>Michael Williams</b>	Akiak Native Community; Chief, Yupiit Nation Consortium of Federally Recognized Tribes
<b>Jonathan Windy Boy</b>	Montana State Senator, Chippewa Cree Tribe
<b>Kate Wolgemuth</b>	State of Alaska
<b>Jennifer Yeoman</b>	Vice Chairperson, Kenaitze Indian Tribe



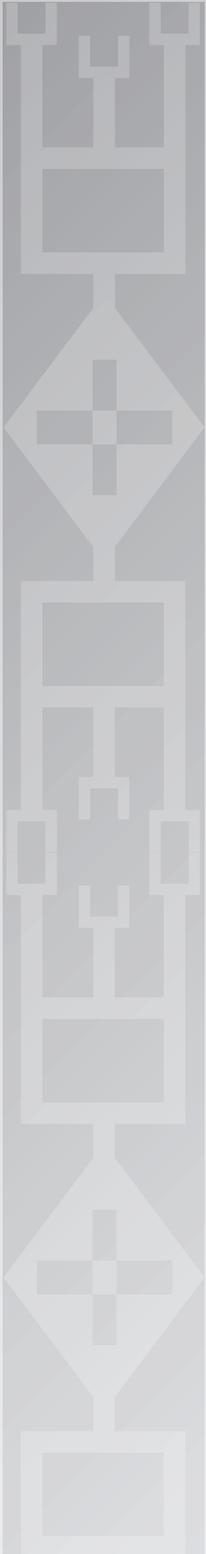
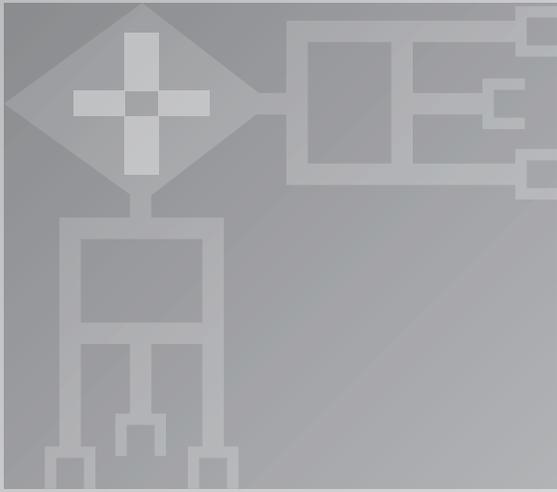
## Federal Representatives

NAME	TITLE AND ORGANIZATION
<b>Amber Artis</b>	Office of Justice Programs, Department of Justice
<b>Brenda Auterman</b>	Office on Violence Against Women
<b>Summer Baugh</b>	Federal Bureau of Investigation
<b>Lanisha Bell</b>	Office of Justice Services, Bureau of Indian Affairs, Department of Interior
<b>Patricia Broken Leg Brill</b>	Office of Justice Services, Bureau of Indian Affairs, Department of Interior
<b>Beverly Cotton</b>	Indian Health Service
<b>Karimah Dosunmu</b>	Office on Violence Against Women, Department of Justice
<b>Lorraine Edmo</b>	Office on Violence Against Women, Department of Justice
<b>Pamela Elton</b>	Federal Bureau of Investigation
<b>Bea Hanson</b>	Office on Violence Against Women, Department of Justice
<b>Babette Herne</b>	Bureau of Indian Affairs, Department of Interior
<b>Marcia Hurd</b>	Office of Tribal Justice, Department of Justice
<b>Lamar Iron Horse</b>	OVW Tribal Unit, Department of Justice
<b>Ruth Jewell</b>	National Center for Victims of Crime
<b>Marylouise Kelley</b>	Administration for Children and Families
<b>Krystalyn Kinsel</b>	Office of Tribal Justice, Department of Justice
<b>Kevin Killigrew</b>	Federal Bureau of Investigation



NAME	TITLE AND ORGANIZATION
<b>Amanda Marshall</b>	District of Oregon, Department of Justice
<b>Karol Mason</b>	Office of Justice Programs, Department of Justice
<b>Shawn Matthews</b>	Federal Bureau of Investigation
<b>Shannon May</b>	Federal Bureau of Investigation
<b>Katherine Scotta</b>	Office of Justice Services, Bureau of Indian Affairs, Department of Interior
<b>Mark Telle</b>	Federal Bureau of Investigation
<b>Gaye Tenoso</b>	Office of Tribal Justice, Department of Justice
<b>Melody Tiddle</b>	Office for Victim Assistance, Federal Bureau of Investigation
<b>Tricia Tingle</b>	Bureau of Indian Affairs
<b>Brittney White</b>	Federal Bureau of Investigation
<b>Tony West</b>	Office of the Associate Attorney General, Department of Justice
<b>Shena Williams</b>	Family Violence Prevention and Services, Administration for Children and Families







## **APPENDIX 2:** CONSULTATION AGENDA

*Working Together to End the Violence*

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Additional consultation materials are available on the OVW website at [www.ovw.usdoj.gov](http://www.ovw.usdoj.gov).

# VIOLENCE AGAINST WOMEN CONSULTATION AGENDA

NOVEMBER 14, 2013

## U.S. Department of Justice, Office on Violence Against Women Violence Against Women Government-to-Government Consultation

Thursday, November 14, 2013

### AGENDA

- 8:00 a.m. – 9:00 a.m.**      **Registration**
- 9:00 a.m. – 9:30 a.m.**      **Welcome**  
*Lorraine Edmo (Shoshone-Bannock), Deputy Director for Tribal Affairs, Office on Violence Against Women, U.S. Department of Justice*
- Flag Song**  
*Dennis Zotigh (Kiowa)*
- Traditional Opening**  
*Jerry Cordova (Taos Pueblo)*
- Shawl Ceremony**  
*Juana Majel Dixon (Pauma Band of Mission Indians)*  
*Joined by Tribal Advocates*
- Welcoming Remarks**  
*The Honorable Brian Cladoosby, President, National Congress of American Indians and Chairman, Swinomish Indian Community*  
*The Honorable Tony West, Associate Attorney General, U.S. Department of Justice*
- 9:30 a.m. – 10:00 a.m.**      **Government-to-Government Consultation**  
*Facilitator: Lorraine Edmo (Shoshone-Bannock)*
- Update from Last Consultation**  
*Bea Hanson, Acting Director, Office on Violence Against Women, U.S. Department of Justice*
- Federal Agency Update**  
*The Honorable Karol Mason, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice*  
*Remarks from Leadership of HHS and Interior*
- 10:00 a.m. – 10:30 a.m.**      **Tribal Leader Introductions**
- 10:30 a.m. – 12:00 p.m.**      **Tribal Leader Testimony**
- 12:00 p.m. – 1:00 p.m.**      **Lunch (On Your Own)**
- 1:00 p.m. – 1:30 p.m.**      **Update on Special Domestic Violence Criminal Jurisdiction**  
*Representatives of Inter-Tribal Working Group*

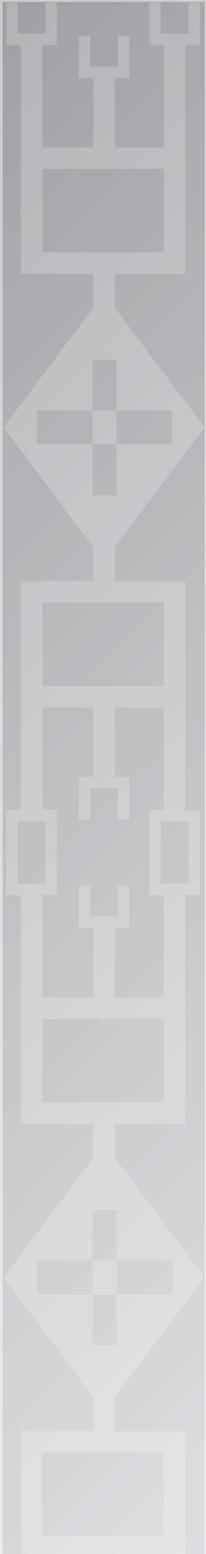
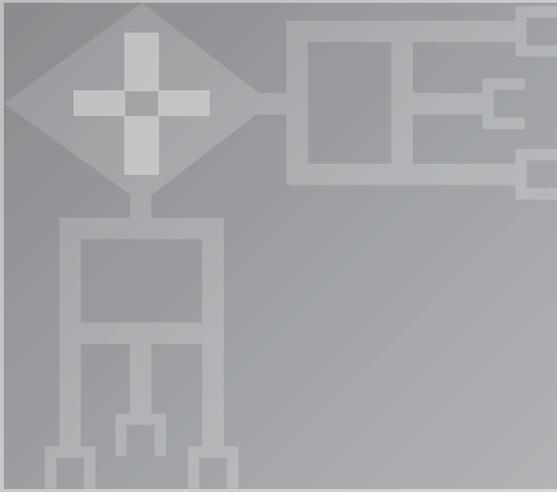
# VIOLENCE AGAINST WOMEN CONSULTATION AGENDA

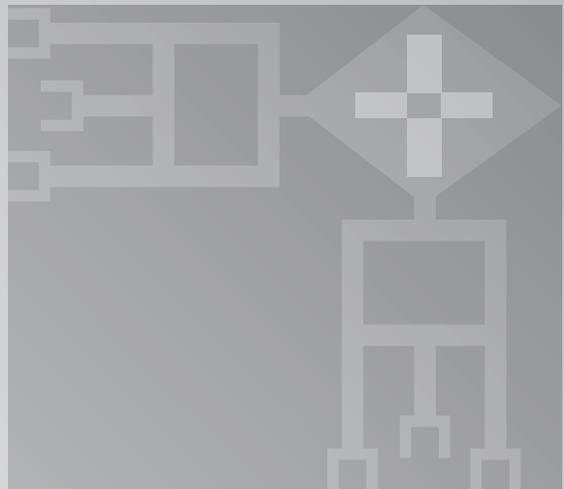
NOVEMBER 14, 2013

U.S. Department of Justice, Office on Violence Against Women  
**Violence Against Women Government-to-Government Consultation**  
Thursday, November 14, 2013

## AGENDA

- |                              |   |
|------------------------------|---|
| <b>1:30 p.m. – 4:30 p.m.</b> | <b>Tribal Leader Testimony</b>                  |
| <b>4:30 p.m. – 5:00 p.m.</b> | <b>Traditional Closing and Summary Comments</b> |





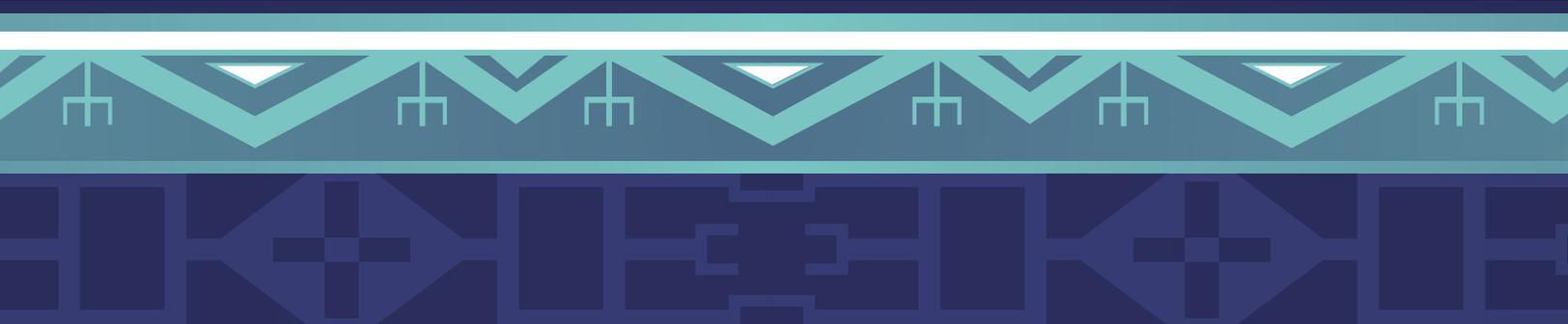


U.S. DEPARTMENT OF JUSTICE  
OFFICE ON VIOLENCE AGAINST WOMEN

# 2013 TRIBAL CONSULTATION

 REPORT 

*Working Together to End the Violence*





United States Department of Justice

**Office on Violence Against Women**

*Working Together to End the Violence*

**2014 Update on the Status of  
Tribal Consultation Recommendations**

*prepared for*

**Department of Justice Annual Government-to-Government**

**Violence Against Women Tribal Consultation**

**Rapid City, SD**

**October 15, 2014**

## **Table of Contents**

<b><u>Section</u></b>	<b><u>Page</u></b>
<b>Introduction</b>	<b>2</b>
<b>Part One: Implementation of the Tribal Provisions in VAWA</b>	<b>3</b>
<b>Part Two: Strengthening the Federal Response to Violence Against American Indian and Alaska Native Women</b>	<b>14</b>
<b>Appendices</b>	
<b>A: 2013 Consultation Agenda and Framing Papers</b>	
<b>B: Analysis of OVW Tribal Grant Program Funding</b>	
<b>C: FY 2014 OVW Tribal Grant Awards</b>	
<b>D: Tribal Crime and Justice Research &amp; Evaluation Studies</b>	

## Introduction

On November 14, 2013, the Department of Justice (DOJ) hosted its eighth annual government-to-government consultation on violence against American Indian and Alaska Native women. DOJ received recommendations from tribal leaders on the three consultation topics statutorily-mandated by Title IX of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA 2013):

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

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

The purpose of this follow-up report is to provide tribal leaders with a comprehensive update on activities undertaken by DOJ in the past year to respond to the recommendations made by tribal leaders at last year's consultation session. This report includes two sections: 1) a review of progress made on implementation of the existing tribal provisions included in VAWA; and 2) an update on other DOJ activities related to violence against Native women. This report is meant to be a companion to the report summarizing the proceedings of the 2013 consultation, which is available on [www.justice.gov/ovw/tribal-consultation](http://www.justice.gov/ovw/tribal-consultation).

## Part One: Implementation of the Tribal Provisions in VAWA

The reauthorization of VAWA in 2005 included a number of provisions specifically aimed at ending violence against American Indian and Alaska Native women. Title IX, “The Safety for Indian Women Act,” honors the government-to-government relationship between the federal government and tribal governments and aims to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes against Indian women. On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act of 2013 (VAWA 2013).<sup>1</sup> Title IX of VAWA 2013, also entitled “Safety for Indian Women,” builds on existing tribal provisions and programs in VAWA 2005, clarifies the reach of tribal civil jurisdiction to issue and enforce protection orders, and contains an historic Congressional recognition of tribal criminal jurisdiction over domestic violence offenders.

At the 2013 consultation session, as well as previous ones, many tribal leaders commented on the importance of full implementation of the tribal provisions in VAWA. This document provides a summary of what DOJ has done to implement the tribal provisions in VAWA 2005, as well as the steps the Department has taken since March, 2013 to implement the new and enhanced tribal provisions in VAWA 2013.

### *Administering VAWA grant programs*

VAWA authorizes three programs that are specifically designed for tribal communities: 1) the Grants to Tribal Governments Program (“Tribal Governments Program”); 2) the Tribal Sexual Assault Services Program (“TSASP”); and 3) the Tribal Coalitions Program. In Fiscal Years (FYs) 2010 - 2012, the Tribal Governments Program and TSASP were both included in DOJ’s Coordinated Tribal Assistance Solicitation (“CTAS”), which is discussed in more detail below. For FYs 2013 and 2014, the Tribal Governments Program was included in the CTAS, but the TSASP was not. An analysis of the funding levels for each of the three tribal-specific programs in FY 2014 is provided as Appendix B to this report.

#### Tribal Governments Program

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

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<sup>1</sup> Pub. L. No. 113-4, 127 Stat. 54 (2013).

OVW has issued a solicitation for the Tribal Governments Program each year since FY 2007. Since FY 2010, OVW has partnered with other DOJ grant-making components to issue a Coordinated Tribal Assistance Solicitation (CTAS), which included OVW's Tribal Governments Program as one of the "Purpose Areas." A list of awards in the Tribal Governments Program for FY 2014 is provided as Appendix C to this report.

### TSASP

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

OVW made awards for TSASP for the first time in FY 2010 as part of the CTAS. TSASP was included as part of CTAS again in FY 2011, and 2012.<sup>2</sup> In FY 2013, TSASP was not included in CTAS. Instead, to provide continuity in funding and to simplify administration of such a small program, OVW invited seven current FY 2010 grantees to apply for supplemental funding in FY 2013. Invited grantees were identified based on the amount remaining on existing awards.

At the November 2013 Tribal Consultation, OVW requested the views of tribal leaders regarding the administration of TSASP in FY 2014, as outlined in the framing paper on the FY 2014 TSASP solicitation proposal in Appendix A. OVW proposed issuing a single solicitation for TSASP and the Sexual Assault Services Culturally Specific Program (SAS CSP) because of the two programs' similarities in purpose and scope, with only tribes and tribal nonprofits eligible for TSASP funds and nonprofit culturally specific organizations, including tribal organizations, eligible for SAS CSP. The views expressed on this proposal at the 2013 consultation were largely negative, and OVW

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<sup>2</sup> In FY 2010, OVW's TSASP and Tribal Governments Programs were included as two separate purpose areas in CTAS. This meant that a tribe seeking funding under both programs was required to submit two separate purpose area narratives. While the Tribal Governments Program is a very broad and flexible program that permits a wide range of activities, TSASP is much more narrowly focused on providing services to victims of sexual assault. All of the activities authorized under TSASP can also be undertaken under the Tribal Governments Program, with two exceptions: TSASP funds may be used to provide services to child sex abuse victims and to family members and others who may be collaterally impacted by a sexual assault. Because of the significant overlap in the two programs, in FY 2011, OVW combined TSASP and the Tribal Governments Program into a single purpose area in CTAS. OVW did not receive any applications that met the program requirements for TSASP in FY 2011 and did not make any awards. For FY 2012, the two programs were again administered as two separate purpose areas.

therefore issued a separate solicitation for the FY 2014 TSASP for both new and continuation funding. A list of awards in TSASP for FY 2014 is included in Appendix C.

### Tribal Coalitions

OVW's Tribal Coalitions Program provides funding to certain nonprofit organizations to effect social change and systemic reform related to ending violence against American Indian and Alaska Native women. Grant funds can be used to increase awareness of domestic violence and sexual assault; enhance the federal, state, and tribal response to violence against Indian women; provide technical assistance to coalition membership and tribal communities to enhance access to essential services for victims of domestic and sexual violence, including sex trafficking; and assist tribes in developing and promoting legislation and policies that enhance best practices for responding to violent crimes against Indian women. VAWA authorizes two funding streams for tribal coalitions. The first is a distribution of 1/56<sup>th</sup> of the STOP appropriation and, beginning in FY 2014, five percent of the Arrest Program appropriation. The second is not less than one percent of the total appropriation for the Sexual Assault Services Program and is available only to those coalitions that are involved in sexual assault work. Beginning in FY 2014, because of amendments in VAWA 2013, at least 90 percent of Tribal Coalitions Program funding is to be equally divided among recognized tribal coalitions.

OVW implemented this new formula distribution in FY 2014 and has issued awards to 13 coalitions. These grantees include two new coalitions: one from Utah and one from Maine. An additional four existing coalitions were eligible to apply but chose not to because they still had ample funding in their FY 2013 awards.

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

### ***OVW Tribal Funds and the Coordinated Tribal Assistance Solicitation***

For the fifth year, in FY 2014, DOJ issued a single Coordinated Tribal Assistance Solicitation (CTAS) for its tribal-specific grant programs. CTAS included OVW's Tribal Governments Program as Purpose Area #5. CTAS also includes the tribal-specific programs from the Department's Office of Justice Programs (OJP) and Community Oriented Policing Services (COPS) Office.

Prior to implementation of CTAS, tribes seeking funding from multiple DOJ tribal grant programs were required to submit multiple grant applications. With CTAS, tribes are able to submit a single application while selecting multiple purpose areas, ranging from juvenile justice to violence against women.

### **Grants to Tribal Governments Program—CTAS Purpose Area 5**

As in previous years, in FY 2014, new applicants to the Grants to Tribal Governments program were able to request up to \$450,000. Although there was no explicit limit on the amount of funding that current grantees could request, OVW offered guidance in the CTAS to current grantees that it might not be able to offer awards to them in excess of \$900,000 due to the anticipated demand for funding. These budget guidelines were first adopted in FY 2008.

In FY 2014, OVW received 83 applications for CTAS Purpose Area #5 requesting a total of \$52,268,414. There were 25 new applicants in FY 2014, and 58 applications were submitted by current grantees who were seeking funding to enhance or continue their existing OVW-funded projects. Of the 83 applications, 72 came from individual federally-recognized Indian tribes, six applications were from organizations or agencies acting as the authorized designee of a federally-recognized Indian tribe, and five applications came from tribal consortia.

All applications submitted for CTAS Purpose Area #5 funding in FY 2014 were sent to a panel of external peer reviewers and were also reviewed internally by OVW Program Specialists. During the internal review, OVW staff evaluated each application taking into account whether the applications contained activities that might compromise victim safety and how well applicants for continuation funding had complied with the requirements of their current OVW grant awards and whether they had an excess of funding remaining in their current awards.

Each application sent to external peer review was evaluated and scored by a three-person panel composed of individuals with expertise in violence against women and the unique needs of tribal communities.

Based on the internal and external review of the applications, OVW made 54 awards through the Tribal Governments Program for FY 2014 for a total of \$31,532,019. Reasons that applications did not receive funding included low peer review scores, incomplete applications, duplication of activities, poor past performance, and excessive funds remaining from previous grants.

### **Tribal Sexual Assault Services Program (TSASP)—Independent Solicitation in FY 2014**

As noted above, in FY 2014, TSASP was not included in CTAS and OVW instead issued an independent solicitation after consulting with tribes. The budget cap for each award was set at \$300,000. In response to the FY 2014 TSASP solicitation, the Office received eleven applications. Each application was reviewed for eligibility, completeness, assurance that proposed project activities fell within the scope of the TSASP statutory purpose area, and to identify any proposed activities that might compromise victim safety. Upon completion of the internal review, eight applications were forwarded to peer review and evaluated by an external review panel. The panel was made up of three individuals with expertise in the area of sexual assault, victim advocacy, and serving tribal communities. Based on the internal and external review of the applications, OVW made eight awards through the TSASP for FY 2014 for a total of \$2,379,689. Reasons that applications did not receive funding included low peer review scores and incomplete applications.

## *Implementation of VAWA 2005's substantive tribal provisions, as amended by VAWA 2013*

### **Sec. 903 Consultation**

Section 903 of VAWA 2005 requires the United States Attorney General to conduct an annual consultation with Indian tribal governments to address the federal administration of all tribal funds and programs established under VAWA. As amended by VAWA 2013, the statute further directs the Attorney General to solicit recommendations from the Indian tribes at an annual consultation concerning the following items:

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

The Department of Justice held annual consultation sessions with tribes on violence against American Indian and Alaska Native women in 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013. In June of 2011, DOJ hosted an additional consultation session with tribal governments to discuss a legislative proposal intended to address violence against Native women. (As discussed below, this legislative proposal was enacted as part of the Violence Against Women Reauthorization Act of 2013.) DOJ's annual consultation for 2014 is scheduled to take place on October 15, 2014 in Rapid City, SD.

### **Sec. 904 Analysis and Research on Violence Against Indian Women**

Section 904(a) of VAWA 2005, as amended by section 907(a) of VAWA 2013, mandates that the National Institute of Justice (NIJ), in consultation with OVW, conduct a national baseline study on violence against American Indian and Alaska Native (AI and AN) women living in tribal communities. As a result, NIJ has developed a comprehensive research program consisting of multiple projects that will be accomplished over an extended period of time to address this much needed research. The purpose of the research program is to examine violence against AI and AN women (including domestic violence, dating violence, sexual assault, stalking, sex trafficking, and murder) and identify factors that place AI and AN women at risk for victimization; evaluate the effectiveness of federal, state, tribal, and local responses to violence against AI and AN women; and propose recommendations to improve the effectiveness of these responses.

Prior to and during the development of the program of research, NIJ sought input and feedback from multiple sources including the Task Force described below, prominent researchers and experts in the field, and federal stakeholders and partners. In 2012, NIJ completed Phase 1 of the program of research, the Violence Against Indian Women (VAIW) in Indian Country pilot study, which tested the VAIW survey and methods for selecting and recruiting survey participants. In 2014, NIJ launched Phase 2, the VAIW National Baseline Research Study, with data collection to begin in 2015 and study findings expected in the fall of 2017. NIJ also partnered with the Centers for Disease Control and Prevention to conduct a special study of lifetime prevalence of interpersonal and sexual violence of self-identified AI and AN men and women living in the United States, with study findings expected to be released at the 14<sup>th</sup> National Indian Nations Conference in December 2014. NIJ is conducting and supporting a number of other efforts to

evaluate the effectiveness of federal, state, local and tribal responses to VAIW in tribal communities. The attached report from NIJ, *Tribal Crime and Justice Research & Evaluation Studies* (September 2014), provides a full status report on NIJ's VAIW program of research. (Appendix D).

Section 904(a)(3) of VAWA 2005 requires that the Attorney General establish a federal advisory committee to assist NIJ and OVW in the development of the research program to study violence against AI and AN women. Since March 31, 2008, the Task Force on Research on Violence Against American Indian and Alaska Native Women (Task Force), which includes representatives from tribal governments, national tribal domestic and sexual violence non-profit organizations, and other national tribal organizations, has provided advice and recommendations to NIJ. To ensure that NIJ continues to receive timely advice from the Task Force, OVW has requested that the Attorney General re-charter the Task Force. OVW is considering alternative means for holding the next Task Force meeting, including video conferencing, webinars, and other technologies. In addition, given that the current Task Force members had only attended two meetings, OVW Acting Director Bea Hanson invited the current members to continue to serve on the Task Force beyond their initial two year term.

### **Sec. 905 Tracking of Violence Against Indian Women**

Section 905 of VAWA 2005 includes two provisions. The first, section 905(a), requires the Attorney General to permit Indian law enforcement agencies, in cases of domestic violence, stalking, sexual assault, and dating violence, to enter information into federal criminal information databases and to obtain information from the databases. This responsibility was effectively expanded by Section 233(a) of the Tribal Law and Order Act of 2010 which, among other things, amends 28 U.S.C. § 534 to permit tribal law enforcement agencies “to access and enter information into Federal criminal information databases[.]”

Following a 2009 listening session that the Attorney General held with tribal leaders, a number of DOJ components launched a pilot project for tribes without adequate access to Criminal Justice Information Services Division (CJIS) services, including the National Crime Information Center (NCIC). The project currently has 21 tribes that receive access to CJIS and the various law enforcement databases they manage, with applications by several other tribes pending approval. Funding remains available for additional tribes to participate through a one-time grant from the Office of Community Oriented Policing Services (COPS), but there is no permanent funding source once these grant funds are expended.

The second provision, section 905(b), authorizes the establishment of a national tribal sex offender registry and a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions. OVW hosted a focus group on developing the registries in September of 2008. During this meeting, OVW heard from representatives from tribal law enforcement, the Federal Bureau of Investigation (FBI), federal prosecutors, and others with expertise in the area of criminal justice information-sharing. OVW also has engaged in discussions with the DOJ SMART Office to discuss how this provision intersects with that Office's work to implement the Adam Walsh Act. Due to limited funding, OVW announced in 2011 that it would implement the databases sequentially and would develop the National Tribal Order of Protection Registry first.

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

A national protection order registry already exists within NCIC. The NCIC Protection Order File (NCIC POF) was developed to serve as the national registry for protection orders issued in state and tribal courts. The NCIC POF is a voluntary system and is designed to facilitate the enforcement of protection orders and federal firearm laws. During FY 2014, OVW, working in concert with OTJ, FBI, BIA and SMART, has researched the number of tribal police departments and tribal courts submitting orders of protection into the NCIC POF. The number of tribal protection orders has steadily increased from a total of 207 protection orders entered as of August 2012 to 559 protection orders on file as of July 2014. OVW credits increase to training and outreach efforts led by OVW and the National Indian Country Training Initiative. Given the existence of the NCIC POF and the fact that more and more tribes are submitting protection orders to this national database, OVW is reaching out to its tribal partners to explore new ways to achieve the goals of Section 905(b) of VAWA 2005 through additional training and outreach. OVW's request for consultation on this issue is described in an accompanying framing paper on tribal protection order and sex offender registries.

### **Sec. 906 Grants to Indian Tribal Governments**

As described above, section 906 of VAWA 2005, as amended by VAWA 2013, authorizes OVW's Tribal Governments program, which provides funding to tribes and their designees to support a broad range of criminal justice interventions and victim services. Beginning with OVW's first annual Tribal Consultation in 2006, some tribal leaders and advocates have advocated that OVW should distribute these tribal funds on a formula basis. In response to these recurring comments, OVW asked leaders at the 2012 annual Tribal Consultation to consider whether OVW should shift from a competitive, discretionary model for distributing tribal grant funds to an annual formula distribution. At that consultation, the majority of tribal leaders who addressed the formula question expressed some support for the idea, but they requested that OVW develop possible model formulas that would show what a formula would mean for their individual tribes. In response, OVW developed a paper that outlined five different hypothetical formulas and showed how each would affect the award size for seven tribes of differing population size. This paper was shared with tribal leaders at the 2013 Consultation. At that consultation session, there was no consensus among tribal leaders on the issue.

Since the 2013 Consultation, OVW has sought to find additional opportunities to explore this issue with tribal leaders and stakeholders by holding listening sessions at a variety of tribal meetings. At these listening sessions, there was a lack of agreement among tribal leaders whether to support a formula distribution, although a majority of commenters expressed concern

about changing to a formula funding system. OVW then convened a conference call with tribal leaders and advocates who had volunteered at the 2013 consultation to serve on a formula distribution working group. Despite support for the principle of formula funding, the overwhelming consensus among the working group's members was that there are too many hurdles to implementing formula funding at this time and for OVW funding alone.

After carefully considering the views expressed at the 2013 Consultation, numerous meetings over the course of the past year, and the working group's call, OVW has decided not to implement formula distribution of the Tribal Governments Program. In keeping with suggestions made by tribal leaders and advocates, OVW will continue to implement changes made in the FY 2014 funding cycle that were designed to broaden the availability of Tribal Governments Program funding to more tribes. A more complete description of this consultation process and the suggestions made by tribal leaders and advocates will be provided at the 2014 Consultation.

### **Sec. 907 Office on Violence Against Women Deputy Director for Tribal Affairs**

Section 907 of VAWA 2005 establishes in OVW a Deputy Director for Tribal Affairs with a portfolio of statutory responsibilities relating to violence against Indian women, including administering tribal grants, coordinating development of federal policy, providing support to other Departmental offices, and ensuring the availability of tribal technical assistance. In late 2006, OVW hired Lorraine Edmo, who is an enrolled member of the Shoshone-Bannock Tribe of Idaho, to serve as the Deputy Director for Tribal Affairs. Ms. Edmo currently oversees a staff of grant program specialists, coordinates implementation of the tribal provisions of VAWA within OVW, and meets with tribal leaders nationwide to gain a better understanding of the needs and challenges that tribes face.

During the past year, Ms. Edmo continued to serve on the CTAS Leadership Committee, which oversees development of the CTAS funding opportunity for tribes. This committee meets bi-weekly and includes staff members from the Office of Justice Programs (OJP) and the Community Oriented Policing Services (COPS) programs. Ms. Edmo has presented at a number of tribal meetings this year, including the National Congress of American Indians (NCAI) Task Force on Violence Against Women; the Montana Native Women's Coalition Tribal Summit meeting; the NM Tribal Leaders Summit meeting sponsored by the Coalition to Stop Violence Against Native Women; and the Alaska Native Women's Advisory Committee to the National Indigenous Women's Resource Center Project. In November 2013, Ms. Edmo received the Attorney General's Leadership Excellence Award for her work in Indian country.

### **Sec. 908 Enhanced Criminal Law Resources**

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

In July 2010, the Executive Office for United States Attorneys launched the National Indian Country Training Initiative (NICTI) to ensure that Department prosecutors, as well as state and

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

### **Sec. 909 Domestic Assault by an Habitual Offender**

Section 909 of VAWA 2005 created a new federal crime, “Domestic Assault by an Habitual Offender,” which enables federal prosecutors to charge any person who commits a domestic assault within Indian country and who has a final conviction on at least two separate prior occasions in federal, state, or Indian tribal court for a previous assault, sexual abuse, or serious violent felony against a spouse or intimate partner. Several defendants have unsuccessfully challenged the constitutionality of this provision arguing that tribal court convictions cannot be used as predicate offenses in cases where the defendant was not provided with appointed counsel. DOJ has vigorously defended the constitutionality of the habitual offender statute, and, in 2011, both the Eighth and Tenth Circuit Courts of Appeal upheld the provision. *United States v. Cavanaugh*, 643 F.3d 592 (8th Cir. 2011), *cert. denied*, 132 S. Ct. 1542, 182 L. Ed. 2d 220 (2012); *United States v. Shavanaux*, 647 F.3d 993 (10th Cir. 2011), *cert. denied*, 132 S. Ct. 1742, 182 L. Ed. 2d 535 (2012). Since the resolution of these legal challenges, the FBI has steadily increased its initiatives to combat domestic violence in Indian country. In the three years prior to 2012, the FBI investigated an average of 48 cases of domestic violence each year; since January 2012, this has increased to an average of 107 cases each year. A review of DOJ’s case management data shows that this criminal offense is charged with increasing frequency and is becoming a favored tool of federal prosecutors when they receive a request for charges against a defendant with a prior history of convictions for intimate partner violence.

### ***Implementation of VAWA 2013’s tribal provisions related to special domestic violence criminal jurisdiction and new federal crimes***

#### **Pilot Project for Tribal Criminal Jurisdiction over Crimes of Domestic Violence**

Section 904 of VAWA 2013 (Tribal Jurisdiction over Crimes of Domestic Violence) recognizes the inherent power of “participating tribes” to exercise “special domestic violence criminal jurisdiction” (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. Section 904 also specifies the rights that a participating tribe must provide to defendants in SDVCJ cases. Section 908(b)(1) (Effective Dates; Pilot Project) provides that tribes generally cannot exercise SDVCJ until at least two years after the date of VAWA 2013’s enactment—that is, on or after March 7, 2015. However, section 908(b)(2) establishes a “Pilot Project” that authorizes the Attorney General, in the exercise of his discretion, to grant a tribe’s request to be designated as a “participating tribe” on an accelerated basis and to commence exercising SDVCJ on a date (prior to March 7, 2015) set by the Attorney General, after

coordinating with the Secretary of the Interior, consulting with affected tribes, and concluding that the tribe's criminal justice system has adequate safeguards in place to protect defendants' rights.

After the enactment of VAWA 2013, the Department of Justice moved quickly to implement the Pilot Project. To start, the Department engaged in expedited but extensive consultation in the spring of 2013 with tribal officials on how best to design the Pilot Project. On June 14, 2013, the Department published a notice in the *Federal Register* proposing procedures for an Indian tribe to request designation as a participating tribe, inviting public comment, and soliciting preliminary expressions of interest from tribes.<sup>3</sup> On November 29, 2013, the Department published a final notice establishing procedures for tribes to request accelerated designation, establishing procedures for the Attorney General to act on such requests, and soliciting such requests from tribes.<sup>4</sup>

Two months later, on February 6, 2014, the Department announced the designation of three Indian tribes – the Pascua Yaqui Tribe of Arizona, the Tulalip Tribe of Washington, and the Umatilla Tribes of Oregon – as “participating tribes” under the Pilot Project. These three tribes are the first in the United States to exercise SDVCJ, regardless of a defendant's Indian or non-Indian status. The Department's decision to approve the tribes' requests was based on a detailed review of application questionnaires submitted by the tribes in December 2013, along with excerpts of tribal laws, rules, policies, and other relevant information. That review, conducted in close coordination with the Department of the Interior and after formal consultation with affected tribes, led the Department to determine that the criminal justice systems of these three tribes have adequate safeguards in place to fully protect defendants' rights.

Since February of this year, each of the three pilot project tribes has undertaken steps to exercise SDVCJ – making arrests, filing charges, and, as of the date of this report, obtaining three convictions. In exercising SDVCJ, the pilot tribes have worked closely with their local United States Attorneys' Offices and the Department to identify which cases are best for tribal handling and which are best for federal prosecution with the common goal of holding offenders accountable and keeping Native American women safe.

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

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<sup>3</sup> See Pilot Project for Tribal Jurisdiction Over Crimes Against Domestic Violence, 78 Fed. Reg. 35961 (June 14, 2013).

<sup>4</sup> See Pilot Project for Tribal Criminal Jurisdiction over Crimes Against Domestic Violence, 78 Fed. Reg. 71645 (Nov. 29, 2013).

### **Amendments to the Federal Assault Statute**

Police, prosecutors and medical providers across the country have begun to appreciate the inherent lethality risks of strangulation and suffocation crimes. Because domestic violence and sexual assault remain primarily a matter of state, local, and tribal jurisdiction, the federal government historically lacked jurisdiction over some intimate partner violence crimes. VAWA 2013 changed that by providing the federal government with additional statutory tools to prosecute intimate partner violence. With the passage of VAWA 2013, Congress recognized the gravity of strangulation and suffocation crimes and, accordingly, amended the federal assault statute, 18 U.S.C. § 113, to include a specific charge of assault or attempted assault by strangulation or suffocation. This change in the law was effective March 7, 2013.

This new federal law makes it possible to prosecute in Indian country a perpetrator who commits or attempts to commit an act of strangulation against a spouse, intimate partner, or dating partner. VAWA defines strangulation as the intentional, knowing, or reckless impeding of the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck – and importantly - regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim. One of the first cases in the country prosecuted under this new statute was *United States v. Zacheria Crawford*. In August 2013, Crawford strangled his girlfriend until she lost consciousness. The assault occurred within the exterior boundaries of the Blackfeet Indian Reservation in Montana. The defendant is an enrolled member of the Tribe. The victim told the FBI Special Agent that she was asleep in the home she shared with the defendant, her boyfriend of three years. Crawford woke her up, began to threaten her, and accused her of cheating. The defendant then forced the victim into the crawlspace located in a closet leading under the residence. While in the crawlspace, Crawford beat the victim with his hands and his feet. He then placed his hands on the victim's throat and began strangling her. The victim told law enforcement that he said words to the effect of, "I really hate to do this to you, but I'm going to kill you." The defendant pled guilty to one count of Assault by Strangulation, 18 U.S.C. § 113(a)(8), and was sentenced to 30 months imprisonment and three years of supervised release at his March 2014 sentencing hearing. A copy of the sentencing press release can be found online at <http://www.justice.gov/usao/mt/pressreleases/20140605140846.html>.

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

## **Part Two: Strengthening the Federal Response to Violence Against American Indian and Alaska Native Women**

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

- In January 2010, then-Deputy Attorney General David Ogden issued a memorandum to United States Attorneys declaring that “public safety in tribal communities is a top priority for the Department of Justice.” He directed that: (1) every United States Attorney’s Office with Indian country in its district, in coordination with our law enforcement partners, engage at least annually in consultation with the tribes in that district; and (2) every newly confirmed United States Attorney in such districts should conduct a consultation with tribes in his or her district and develop or update the district’s operational plan within eight months of assuming office, unless an extension of time is provided by the Executive Office for United States Attorneys (EOUSA). The United States Attorneys were specifically directed to focus on violence against women in these consultations and in drafting their district-specific operational plans.
- Since 2009, DOJ has added many new Indian country Assistant United States Attorneys (AUSAs) to increase prosecution of serious crime. For FY 2014, the United States Attorneys’ Offices project that approximately 91 Indian country AUSA workyears are focused on the prosecution of serious crime in Indian country.
- Since 2009, DOJ has added 9 new FBI positions, including 6 agents to work on Indian country investigations. Additionally, the FBI’s Office for Victim Assistance has added 11 Indian country Victim Specialists – bringing the total number of Victim Specialists assigned to Indian country to 41 – and a second child/adolescent forensic interviewer for Indian country.
- In July 2010, EOUSA launched the National Indian Country Training Initiative (NICTI) to ensure that Department prosecutors, as well as state and tribal criminal justice personnel, receive the training and support needed to address the particular challenges relevant to Indian country prosecutions. This training effort is led by the Department’s National Indian Country Training Coordinator. In the past two years alone, the NICTI has delivered dozens of training opportunities around the country, reaching over 30 United States Attorneys’ Offices with Indian country responsibility and over 200 tribal, federal, and state agencies. FY 2014 training addressing violence against women includes, in part, the following: Adult/Adolescent Sexual Assault Examiner Training; Sexual Assault Nurse Examiner Expert Witness Training; and the Investigation and Prosecution of Sexual Assault and Domestic Violence Crimes in Indian Country. In

addition to live training, the NICTI issues written publications and serves as faculty for other federal agency trainings, webinars, tribally hosted conferences, and technical assistance providers serving Indian country.

- In 2012, the NICTI received funding from OVC and OVW to develop a new training DVD and resource materials on the issue of alcohol-facilitated sexual assault in Indian country. The DVD will focus on best practices for working with sexual assault victims who were using drugs or alcohol prior to their victimization, relevant federal statutes, and proper investigation and prosecution techniques. The NICTI anticipates that the DVD and resource manual will be completed and released in April 2015. In addition, the NICTI is developing a new training DVD and resource materials addressing the investigation and prosecution of domestic violence, sexual assault, and human trafficking crimes committed against Alaska Natives. NICTI anticipates that this product will be completed in September 2015.
- In FY 2014, the FBI's Indian Country Crimes Unit held a management conference for all Indian country supervisors, which included a discussion of FBI's efforts to address child sexual abuse and intimate partner violence. The unit also held five training courses for FBI personnel, task force officers, and tribal partners, including a *Child Abuse in Indian Country* course.
- In 2014, the FBI's Indian Country Crimes Unit and Office for Victim Assistance provided a briefing and subsequent strategic plan to FBI Director Comey, detailing staffing and training initiatives that would enhance FBI's response to violence against women and related crimes in Indian country.
- In 2012, OVW launched a Tribal Special Assistant United States Attorney (SAUSA) Pilot project. The pilot project's goal is to fund eligible tribal prosecutors to pursue violence against women cases in both tribal and federal courts and to enhance collaboration between tribal officials and federal prosecutors. The program enables tribal prosecutors to bring violence against women cases in federal court and to serve as co-counsel with federal prosecutors on felony investigations and prosecutions of offenses arising out of their respective tribal communities. Three-year awards were made to Fort Belknap Tribe in Montana, the Winnebago Tribe in Nebraska, the Pueblo of Laguna in New Mexico, and the Standing Rock Sioux Tribe in North Dakota and South Dakota. Through this special initiative, OVW supports salary, travel and training costs of four tribal SAUSAs, who are working in collaboration with the United States Attorneys' Offices in the Districts of Nebraska, New Mexico, Montana, North Dakota and South Dakota. Tailored to meet the particular needs of each participating tribe, this pilot project is designed to improve the quality of cases, the coordination of resources, and the communication of priorities both within and between the various law enforcement agencies working in these jurisdictions. All four tribal SAUSAs have been hired and are currently working in federal and tribal court.
- In 2011, the Attorney General launched a Violence Against Women Federal and Tribal Prosecution Task Force composed of federal and tribal prosecutors. The Task Force was

created to facilitate dialogue and coordinate efforts between the Department and tribal governments regarding the prosecution of violent crimes against women in Indian country and to develop best-practices recommendations for both federal and tribal prosecutors. A prosecutor's resource manual written by the Task Force members is in the final editing process, and the Department anticipates that it will be publicly released before the end of 2014.

- In accordance with Section 265 of the Tribal Law and Order Act, the Department's Office for Victims of Crime (OVC) is partnering with the FBI's Office of Victim Assistance and the Indian Health Service to enhance the response to tribal victims of sexual violence. The AI/AN Sexual Assault Nurse Examiner-Sexual Assault Response Team (SANE-SART) Initiative addresses the comprehensive needs of these victims. From the outset of the project in 2010, OVC and its federal and tribal partners have focused on the challenge of building the capacity of tribal communities to provide coordinated, community-based, victim-centered responses to sexual violence. The five-year project encompasses three demonstration sites, coordinators at the Indian Health Service and the FBI, training and technical assistance, and support from the Attorney General's federal advisory committee and multidisciplinary groups—all committed to institutionalizing sustainable, culturally relevant, evidence-based practices to meet the needs of tribal victims of sexual assault. Highlights from the initiative's efforts in the past 12 months include the following:
  - **AI/AN SANE-SART Demonstration Sites:** The three tribal demonstration sites are the Mississippi Band of Choctaw Indians, the Southern Indian Health Council, and the Tuba City Regional Healthcare Corporation. Each site is now operating functional SANE-SART programs and is poised to provide services to both child and adult victims of sexual assault. In the coming year, OVC will continue to provide each participating community with ongoing access to training and technical assistance to strengthen the programs and ensure their long-term viability.
  - **Tailored Training and Technical Assistance Project:** At the request of the Eastern Shoshone Tribe, OVC partnered with OJP's Diagnostic Center to assemble a team of Indian country experts to conduct a community needs assessment to evaluate the current systemic response to sexual violence at the Wind River Indian Reservation in January 2014. OVC and OJP will collaborate with OVW to provide ongoing training and technical assistance to build on the community's strengths, close gaps in the current response, and enhance existing cooperative partnerships between tribal, federal, state, and local responders to sexual violence.
  - **National Coordinating Committee on the Initiative:** In 2014, OVC's National Coordination Committee on the AI/AN SANE-SART Initiative finalized its Report to the U.S. Attorney General on Improving Federal Agency Response to Sexual Violence in Tribal Nations: Issues and Recommendations, and submitted it to the Attorney General. The committee's recommendations focus on four major areas: (1) federal agency collaboration at the local level; (2) Department of

Justice personnel policy changes; (3) Department of Justice grant solicitations and funding; and (4) public safety and public health.

- **National Strategy to Improve the Systemic Response to Sexual Violence in AI/AN Communities:** OVC established a multi-disciplinary working group of Indian country professionals who have significant experience in developing a coordinated community response to sexual violence to aid in the creation of a national strategy to enhance the ability of tribal governments and their partners to respond to sexual violence. The first draft of the national strategy was completed in early 2014 based on the recommendations of the working group members. The draft strategy is currently under review by OVC, the Indian Health Service, and OVW, as the three agencies work to finalize a plan for dissemination of the strategy.
- More information about the initiative and its multiple components is available at [www.ovc.gov/AIANSane-Sart/](http://www.ovc.gov/AIANSane-Sart/).
- OVW has provided funding for the establishment of a national clearinghouse on the sexual assault of Native women. The National Indian Country Clearinghouse on Sexual Assault (NICCSA) launched its website, [www.NICCSA.org](http://www.NICCSA.org), in October 2013. This website is designed as a one-stop shop for information on sexual violence against American Indian/Alaska Native women and teen girls and includes a toll-free helpline to provide personalized assistance to Indian country justice and service professionals in problem solving complex legal, forensic, and programmatic challenges.
- In FY 2009, OVW provided funding for a project to address the issue of providing service referrals, emergency first aid, and collection and preservation of sexual assault evidence in rural and geographically-isolated tribal communities. The SAFESTAR Project features a novel approach to these issues by highlighting the use of community-based lay health care providers (such as traditional midwives, medicine people, and community health aides) to collect and preserve forensic evidence in sexual assault cases, triage sexual assault-related injuries and health concerns, and provide referrals to sexual assault services. A 40-hour training curriculum to train lay health care providers on how to collect and maintain forensic evidence was developed in collaboration with the International Association of Forensic Nurses and the Southwest Center for Law and Policy. A companion training curriculum for tribal victim advocates, healthcare professionals, law enforcement officers, and prosecutors on their roles in responding to sexual assault cases was also produced. After a successful pilot project at the Tohono O'odham Nation in 2011, the SAFESTAR Project is being implemented in other tribal communities. In the fall of 2013, SAFESTAR was implemented at the Prairie Band Potawatomi Nation, resulting in groundbreaking collaboration among the tribe, state law enforcement officials, state prosecutors, and federal prosecutors. SAFESTAR was implemented among the Eastern Shoshone and Northern Arapaho Tribes on the Wind River reservation in the late spring of 2014. Kaw Nation in Oklahoma and St. Paul Pribilof Island in Alaska are slated for implementation of SAFESTAR within the next six months.

- The National Tribal College and National Indian Country Clearinghouse on Sexual Assault are developing a certification course for lay advocates representing AI/AN sexual assault survivors in tribal courts. To address the severe shortage of legal representation for AI/AN sexual assault survivors, the course will provide a mix of distance learning and on-site litigation training and will result in certification of participants as Tribal Court Legal Advocates. The on-line learning component will be conducted in collaboration with the University of the Washington School of Law. The five month on-line portion of the course is scheduled to begin in January 2015 to be followed by one week of on-site training in Seattle, Washington during the summer of 2015.
- The National Tribal College continues to provide skills based, hands-on legal training at no cost to CTAS grantees through two-day intensive Institutes held in cities across the United States. In 2014, advocates for American Indian and Alaska Native survivors of domestic and sexual violence completed 16 hours of coursework on effective courtroom testimony and on providing testimony as expert witnesses on domestic violence. Upcoming, free Institutes slated for 2015 include an interactive, skills-based training on the litigation of civil protection orders to be held in Anchorage, Alaska; an Institute in Tucson, Arizona on addressing the unique legal and service needs of American Indian and Alaska Native victims with disabilities; and an Institute on effective preservation and assertion of victim rights in tribal, state, and federal courts.
- In 2012, OVC partnered with the National Institute of Justice to award funds to the Massachusetts Department of Public Health (MDPH) to establish a National Sexual Assault TeleNursing Center. The Center will provide 24/7, 365 days-a-year remote expert consultation by Massachusetts Sexual Assault Nurse Examiners to clinicians caring for adult and adolescent sexual assault patients in underserved areas. Three national pilot sites serving priority populations have been selected to partner with the TeleNursing Center for this demonstration project. They are the Twenty-Nine Palms Naval Hospital in California, the Hopi Healthcare Center in Arizona, and the Sutter Lakeside Hospital in California. The TeleNursing Center is now operational and will begin supporting the pilot sites in November 2014. More information is available at [www.mass.gov/dph/telenursing](http://www.mass.gov/dph/telenursing).
- Over the past year, OVW has worked with the White House and other federal agencies on developing coordinated responses to an increase in reported crimes and requests for crisis intervention services for domestic violence and sexual assault in Western North Dakota and Eastern Montana, a region also known as the Bakken. On April 25, 2014, OVW announced the release of two grant solicitations to launch a new \$3 million special initiative for the Bakken region to support the expansion of services to victims of sexual assault, domestic violence, and stalking, as well as aid the local criminal justice system in responding to these crimes. The Bakken Region Initiative was developed through a collaborative process resulting from OVW's July 2013 fact-finding trip to the region, during which OVW leadership met with local and tribal advocates and law enforcement, tribal leaders, the U.S. Attorney, FBI agents, and victim service staff. The Bakken Region Tribal SAUSA Initiative will support the salary, travel, and training costs of a tribal SAUSA for the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation

in Montana and a tribal SAUSA for the Three Affiliated Tribes of the Fort Berthold Indian Reservation in North Dakota. These two new tribal SAUSAs, like the four described above, will be cross-designated to bring cases in both tribal and federal courts and work in collaboration with the United States Attorneys' Offices in Montana and North Dakota. The Bakken Region Enhanced Response to Victims Initiative is funding state domestic violence and sexual assault coalitions, as well as local and tribal victim service providers responding to the increased demand for domestic violence and sexual assault victim services. Funding and technical assistance will also help those working to prevent violence and support survivors. The five grantees supported by OVW's Bakken Region Initiative are: Fort Peck Assiniboine and Sioux Tribes in Poplar, Montana; First National Women's Alliance in Devils Lake, North Dakota; Montana Coalition Against Domestic and Sexual Violence in Helena, Montana; North Dakota Council on Abused Women's Services in Bismarck, North Dakota; and Three Affiliated Tribes of the Fort Berthold Reservation in New Town, North Dakota.

## Appendix A – 2013 Consultation Agenda and Framing Papers

U.S. Department of Justice, Office on Violence Against Women  
Violence Against Women Government-to-Government Consultation  
Thursday, November 14, 2013

### AGENDA

- 8:00 a.m. – 9:00 a.m.**            **Registration**
- 9:00 a.m. – 9:30 a.m.**            **Welcome**  
*Lorraine Edmo (Shoshone-Bannock), Deputy Director for Tribal Affairs, Office on Violence Against Women, U.S. Department of Justice*
- Flag Song**  
*Dennis Zotigh (Kiowa)*
- Traditional Opening**  
*Jerry Cordova (Taos Pueblo)*
- Shawl Ceremony**  
*Juana Majel Dixon (Pauma Band of Mission Indians)*  
*Joined by Tribal Advocates*
- Welcoming Remarks**  
*The Honorable Brian Cladoosby, President, National Congress of American Indians and Chairman, Swinomish Indian Community*  
*The Honorable Tony West, Associate Attorney General, U.S. Department of Justice*
- 9:30 a.m. – 10:00 a.m.**            **Government-to-Government Consultation**  
*Facilitator: Lorraine Edmo (Shoshone-Bannock)*
- Update from Last Consultation**  
*Bea Hanson, Acting Director, Office on Violence Against Women, U.S. Department of Justice*
- Federal Agency Update**  
*The Honorable Karol Mason, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice*  
*Remarks from Leadership of HHS and Interior*
- 10:00 a.m. – 10:30 a.m.**            **Tribal Leader Introductions**
- 10:30 a.m. – 12:00 p.m.**            **Tribal Leader Testimony**
- 12:00 p.m. – 1:00 p.m.**            **Lunch (On Your Own)**
- 1:00 p.m. – 1:30 p.m.**            **Update on Special Domestic Violence Criminal Jurisdiction**  
*Representatives of Inter-Tribal Working Group*
- 1:30 p.m. – 4:30 p.m.**            **Tribal Leader Testimony**
- 4:30 p.m. – 5:00 p.m.**            **Traditional Closing and Summary Comments**

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

**OVW Consultation Question – Formula Distribution:**

Should OVW shift from a competitive, discretionary model for distributing tribal grant funds to an annual formula distribution? If so, what should the formula for distribution look like and how should OVW make this determination?

**OVW Consultation Question – Protection Order Registry**

- a. Should OVW repost the Call for Concept Papers seeking proposals to develop the National Tribal Protection Order Registry Initiative? If so, what suggestions do you have to increase the number of viable applications?
- b. What benefits and/or adverse consequences, if any, do you foresee for AI/AN victims of intimate partner violence from the tribal protection order registry as currently provided for in Section 905(b) of VAWA 2005?
- c. What can be done to increase the number of tribal protection orders and criminal convictions submitted to NCIC?
- d. Given the legislative changes impacting public safety in Indian country since 2005, should the United States Department of Justice seek a reprogramming of the funds appropriated for Section 905(b) and instead request that those monies be used to assist tribes with implementation of TLOA of 2010, NIAA, and VAWA 2013?

**OVW Consultation Question – STOP Formula Program Regulation**

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

**OVW Consultation Question – Tribal Sexual Assault Services Program**

- a. Should OVW release a single solicitation in Fiscal Year 2014 that requests applications for both Tribal Sexual Assault Services Program (Tribal SASP) and Sexual Assault Services Culturally Specific Program (SAS CSP)?
- b. Should OVW make Tribal SASP awards available directly to tribal nonprofits, as authorized by the Violence Against Women Act of 2005?

**OVC Consultation Question - Improving the Response to Sexual Violence**

- a. What is the best way for OVC and its Initiative partners to provide information about the new TTA resource to Tribal leadership so that Tribal leaders are included at the outset of any TTA delivery and invested in its success?
- b. What are the best ways to provide outreach to tribes about the telemedicine center opportunity? Are tribes involved with existing telemedicine networks that OVC and out partners can connect with?



**Consultation Question: Should OVW shift from a competitive, discretionary model for distributing tribal grant funds to an annual formula distribution? If so, what should the formula for distribution look like and how should OVW make this determination?**

**OVW’s Grants to Tribal Governments**

The Grants to Tribal Governments Program (GTGP), which was created by Sec. 906 of VAWA 2005, is OVW’s primary funding source for Tribal Governments. The GTGP is intended to give tribal governments flexibility to address violence against women issues in the way most appropriate and needed for their communities. Under the statute, tribal governments or their designees can use the funds to:

1. Develop and enhance effective governmental strategies to curtail violent crimes against women;
2. Increase tribal capacity to respond to domestic violence, dating violence, stalking, and sexual assault crimes against Native women;
3. Strengthen tribal justice interventions including tribal law enforcement, prosecution, courts, probation, correctional facilities;
4. Enhance services to Indian women who are victims;
5. Develop prevention and education strategies;
6. Provide supervised visitation services;
7. Provide transitional housing to victims;
8. Provide legal assistance to victims.

Since the program was implemented in FY 2007, OVW has awarded funding on a competitive, discretionary basis. Generally, awards have been for a 3-year period. The table below summarizes the number of awards made each year and the amount of funding disbursed. In 2013, grant awards ranged from \$140,000 to \$900,000, with the average award being approximately \$550,000, for a 3-year period.

<b>Fiscal Year</b>	<b>Number of Tribes Funded</b>	<b>Amount Awarded</b>
<b>2007</b>	82	\$31,649,599
<b>2008</b>	65	\$29,449,369
<b>2009</b>	62	\$33,337,280
<b>2010</b>	60	\$34,191,324
<b>2011</b>	61	\$36,326,664
<b>2012</b>	54	\$32,264,073
<b>2013</b>	52	\$28,588,606

In contrast, OVW’s primary funding source for state governments, the STOP Program, is awarded annually on a formula basis. Likewise, the tribal grant program at the Family Violence Prevention Services Agency at HHS makes annual awards to tribes based on a formula. OVW is



*November 2013*

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interested in exploring with tribal governments whether OVW should adopt a formula distribution model beginning in FY 2015.

### **Background:**

At the October 2012 Annual Violence Against Women Tribal Consultation, OVW solicited tribal input on the possibility of adopting a formula distribution model for GTGP. We had subsequent conversations at the March 2013 NCAI Executive and Task Force on Violence Against Women meetings where Tribal Leaders requested that we develop a series of options for the formula with specific examples of how the formula could impact tribes.

At the June 2013 NCAI National Task Force on Violence Against Women meeting we presented a document outlining options for a formula distribution based on OVW's exploration of formula models used by other agencies. In developing the document, we were guided by the knowledge that every tribal community experiences violence against women and that all victims deserve access to services. We know that OVW does not have sufficient resources to fully meet the need in tribal communities. But, each community, regardless of size, should have a place where women who are victims of violence can seek help. Therefore, the formula examples focus on providing sufficient base funding to all participating tribes to allow them to support at least one advocate position.

We chose these options as a way to continue our dialogue together, not to reflect an OVW decision or preference. At this time, OVW has not decided whether the Tribal Governments grant program should remain discretionary or transfer to a formula distribution, but is looking for guidance from tribal representatives. Our plan is to have further conversations at the 2013 VAWA Consultation and any subsequent meetings that Tribal Leaders recommend with the goal of making a final determination with any changes going into effect for grants in Fiscal Year 2015.

### **Formula Hypotheticals:**

The table below was developed at the request of tribal leaders who asked to see how various hypothetical distribution formulas for the OVW Grants to Tribal Governments Program would work. In order to develop this document, OVW had to make a series of educated guesses to answer key questions that will determine how much an individual tribe receives including:

- How many tribes would apply for the funding?
- Which specific tribes would apply?
- What would be the population of the tribes that applied?
- What would be the amount of funding appropriated for the program by Congress?
- What factors should be considered in developing the formula?

It is important to note that changes to the answer to any of the above questions will change how much an individual tribe receives under the formula. Because OVW cannot know with any degree of certainty the answers to the key questions above, the numbers that follow should be used only to help inform our ongoing conversation.



For purposes of developing this table OVW made the following assumptions:

**1. How many tribes would apply?**

OVW has approximately 200 active tribal government grantees. We anticipate that more tribes will apply if we adopt a formula distribution model. The Family Violence Prevention and Services program at HHS (FVPSA), which is distributed via formula, had 231 tribes apply in 2012. For purposes of this exercise, we assumed that 231 tribes would apply for OVW's formula program.

**2. Which tribes would apply?**

We used the 2012 list of tribal FVPSA applicants as the likely applicant pool for an OVW tribal formula program. 231 tribes applied for FVPSA in 2012.

**3. What would be the population of the tribes that applied?**

OVW had difficulty locating a reliable source for tribal population numbers. FVPSA relies on the 2010 Census, and when that is not available uses the BIA Population & Labor Force report, which has not been updated since 2005. For purposes of this exercise, OVW used the 2010 Census figures. We would like guidance from tribes about how to best determine the population of tribal applicants.

**4. What would be the amount of funding appropriated for the program by Congress?**

For purposes of this exercise, OVW assumed there would be \$28 million available for the Grants to Tribal Governments Program using a conservative estimate based on recent year funding availability.

**5. What factors should be considered in developing the formula?**

In developing this document, OVW was guided by the knowledge that every tribal community experiences violence against women and victims everywhere deserve to have access to services. We know that OVW does not have sufficient resources to fully meet the need in tribal communities. But, each community, regardless of size, should have a place where women who are victims of violence can seek help. Therefore, the formula should provide sufficient base funding to all tribes to allow them to fund at least one advocate position.



**For purposes of discussion, OVW developed 5 different hypothetical formulas:**

**Formula 1:** Each tribal applicant was allocated \$75,000 as base funding. Tribes with a population greater than 1,000 were given an additional amount as follows:

<b>Population</b>	<b>Amount over \$75,000 base</b>
1,001 – 5,000	\$ 75,000.00
5,001 – 10,000	\$ 100,000.00
10,001 – 20,000	\$ 125,000.00
20,001 – 30,000	\$ 150,000.00
30,001 – 40,000	\$ 175,000.00
40,001 – 50,000	\$ 200,000.00
50,001 – 60,000	\$ 225,000.00
60,001 – 70,000	\$ 250,000.00
70,001 – 80,000	\$ 275,000.00
80,001 – 90,000	\$ 300,000.00
90,001 – 100,000	\$ 325,000.00
100,001 – 200,000	\$ 400,000.00
200,001 – 300,000	\$ 500,000.00
300,001+	\$ 600,000.00

**Formula 2:** Each tribal applicant was allocated \$75,000 as base funding. The remaining funds were distributed to the tribes on a per capita basis.

**Formula 3:** Each tribal applicant was allocated \$100,000 as base funding. Tribes with a population greater than 1,000 were given an additional amount as follows:

<b>Population</b>	<b>Amount over \$100,000 base</b>
1,001 – 10,000	\$ 25,000.00
10,001 – 20,000	\$ 50,000.00
20,001 – 30,000	\$ 75,000.00
30,001 – 40,000	\$ 100,000.00
40,001 – 50,000	\$ 125,000.00
50,001 – 60,000	\$ 150,000.00
60,001 – 70,000	\$ 175,000.00
70,001 – 80,000	\$ 200,000.00
80,001 – 90,000	\$ 225,000.00
90,001 – 100,000	\$ 250,000.00
100,001 – 200,000	\$ 300,000.00
200,001 – 300,000	\$ 400,000.00
300,001+	\$ 500,000.00



**Formula 4:** Each tribal applicant was allocated \$100,000 as base funding. The remaining funds were distributed to the tribes on a per capita basis.

**Formula 5:** The full amount of the appropriation is divided equally among all tribal applicants without regard to population of any other factor.

	Census Population	Formula 1	Formula 2	Formula 3	Formula 4	Formula 5
TRIBE A	901	\$75,000	\$80,163	\$100,000	\$102,406	\$121,739
TRIBE B	4,706	\$150,000	\$101,965	\$125,000	\$112,565	\$121,739
TRIBE C	9,018	\$175,000	\$126,673	\$125,000	\$124,078	\$121,739
TRIBE D	15,338	\$200,000	\$162,887	\$150,000	\$140,952	\$121,739
TRIBE E	34,538	\$250,000	\$272,903	\$200,000	\$192,216	\$121,739
TRIBE F	117,911	\$475,000	\$750,630	\$400,000	\$414,822	\$121,739
TRIBE G	302,861	\$675,000	\$1,810,394	\$600,000	\$908,639	\$121,739

**OVW is requesting input from tribal leaders on the following questions:**

1. *Is there a preferred funding formula? One of the five options presented above or a different formula?*
2. *Should population be taken into account in the funding formula?*
  - a. *If so, how much weight should population be given? Is it preferable to increase the amount of base funding for all tribes or to increase the amount given to tribes on a per capita basis?*
  - b. *What source should OVW use to determine tribal population?*
3. *Are there other quantifiable factors that should be taken into account in the formula? If so, are there data sources available with the necessary information?*



**Consultation Question: Should OVW repost the Call for Concept Papers seeking proposals to develop the Section 905(b) Tribal Protection Order Registry Initiative? If so, what suggestions do you have to increase the number of viable applications?**

**Consultation Question: What benefits and/or adverse consequences, if any, do you foresee for AI/AN victims of intimate partner violence from the tribal protection order registry as currently provided for in Section 905(b) of VAWA 2005?**

**Consultation Question: What can be done to increase the number of tribal protection orders and criminal convictions submitted to NCIC?**

**Consultation Question: Given the legislative changes impacting public safety in Indian country since 2005, should the United States Department of Justice seek a reprogramming of the funds appropriated for Section 905(b) and instead request that those monies be used to assist tribes with implementation of TLOA of 2010, NIAA, and VAWA 2013?**

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The Violence Against Women Act of 2005 (VAWA 2005), Section 905(b), provided for the creation of a tribal registry or registries. Specifically, VAWA 2005 said that “[t]he **Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—(A) a national tribal sex offender registry; and (B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.**” This paper focuses specifically on the provision authorizing a tribal protection order registry.

The goal of Section 905(b)(1)(B), in particular, is to provide tribal governments with the ability to have timely access to accurate data related to individuals who are the subject of a criminal or civil protection order issued by tribal courts. The registry is also intended to provide participating tribes with the opportunity to share information about alleged domestic violence offenders with other tribal jurisdictions nationwide. Tribes also need the ability to share information with non-tribal law enforcement agencies in order to help protect Native women from violence. VAWA 2005 authorized \$1,000,000.00 for each of fiscal years 2007 to 2011 to be appropriated to carry out this provision.

### **Project History:**

**2005** – Section 905(b) of VAWA 2005 authorized the creation of a national tribal sex offender registry and a tribal protection order registry containing protection orders issued by Indian tribes and participating jurisdictions. In FYs 2008, 2009, 2010, and 2011, OVW received appropriations totaling \$3.9 million to fund these registries.

**2006** – Congress passed the Adam Walsh Act, which included the Sex Offender Registration and Notification Act (SORNA). SORNA has a host of tribal provisions and a great deal of work has



been done to implement SORNA in Indian country. Tribes in the six mandatory PL 280 states, however, are generally excluded from participation in the national registry created by SORNA.

**2008** – In September 2008, OVW hosted a focus group to discuss developing the registries. The focus group was comprised of fifteen tribal and federal representatives. Conclusions included in the Focus Group Meeting Final Report included the following:

- *Tribes should have access to NCIC, but on their own terms. The Tribal Registry should be inter-tribal only. However, Indian women and children deserve the broadest protection that access to a national crime data system allows. The Tribal Registry should enable tribes to code their protective orders to either stay exclusively within the Tribal Registry, or be submitted to NCIC.*
- *Data submitted should be NCIC compliant and include only orders that are police enforceable.*

**2009** – At the 2009 consultation session, OVW announced that it had developed a draft solicitation and would be releasing it shortly. The solicitation was never released due to policy concerns around implementation of the registries given that a National Sex Offender Registry and a Protection Order File already exist in NCIC.

**2010** – At the 2010 consultation session, OVW informed tribes that, due to limited available funding and the significant cost of creating a secure database of this kind, OVW would implement the databases sequentially and would start with the National Tribal Order of Protection Registry. OVW thought that this would allow it to start with a more manageable project, and would also provide time to assess the needs of the tribes after the deadline for SORNA implementation passed in July 2011.

**2011** – At the 2011 consultation, OVW leadership informed tribal leaders that a solicitation had been developed for the National Tribal Order of Protection Registry and was currently under review at DOJ. At that time, it was anticipated that the solicitation would be released in early 2012.

**2012** – At the 2012 consultation, OVW announced that the solicitation had been posted, with applications due in December. Tribal leaders responded very positively, although some expressed concern about the continued delay in implementing the national tribal sex offender registry. A copy of the solicitation can be found at <http://www.ovw.usdoj.gov/docs/ntpori.pdf>

The solicitation stated the following:

*Tribal law enforcement agencies are authorized by Federal statute to access and enter information into Federal criminal information databases maintained by the Federal Bureau of Investigation (FBI). Specifically, §905(a) of VAWA 2005 directs the Attorney General to “permit Indian law enforcement agencies, in the cases of domestic violence, dating violence,*



*sexual assault, and stalking, to enter information into federal criminal information databases and to obtain information from the databases.” Having access to the FBI databases, in particular the National Crime Information Center (NCIC) Protection Order File will enable tribal law enforcement officials to share critical information regarding protection orders issued by tribal courts with law enforcement officials in other jurisdictions across the nation. **The goal of this initiative is to not only create the protection order registry specified in Title IX of VAWA 2005, but also to assist tribes with accessing the national criminal information databases.** (Emphasis added.)*

Applicants were asked to describe how they would ensure registry compatibility with the National Crime Information Center (NCIC) Protection Order file and whether or not the applicant or one of its proposed partners currently had an Originating Agency Identification Number, as well as what type of access the applicant or its partner currently has to NCIC.

**2013** – OVW received two applications for the National Tribal Order of Protection Registry, neither of which proposed viable projects. Neither applicant demonstrated sufficient expertise or partnerships to build a national registry of this type. Consequently, OVW decided not to fund either application.

### **Basic Description of How NCIC Operates**

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

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

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

NCIC is operated under a shared management concept between the FBI’s Criminal Justice Information Services Division (CJIS) and federal, state, local and tribal criminal justice users. CJIS provides a host computer and telecommunication lines to a single point of contact in each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and Canada. Those jurisdictions, in turn, operate their own computer systems, providing access to local criminal justice agencies. Some states have laws or policies which, in effect, prohibit or



limit tribe's access to NCIC. The entry, modification, and removal of records are the responsibility of the agency that entered them. The CJIS Division serves as the custodian of NCIC records.

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

### **2013 Government-to-Government Consultation**

Since the enactment of VAWA 2005, three significant pieces of legislation impacting tribes have passed: the NICS Improvement Amendments Act of 2007 (NIAA), the Tribal Law and Order Act of 2010 (TLOA), and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). The significant policy and legal changes in these three Acts may impact development of or alter the importance of the registries provided for in VAWA 2005. Many of these changes have significantly increased the importance of including tribal records in federal records databases like NCIC.

OVW is interested in engaging tribal leaders and representatives from service provider programs in a discussion of how to effectively implement Section 905(b) of VAWA 2005 in a way that complies with federal law, increases tribal access to NCIC and enhances the safety of American Indian/Alaska Native (AI/AN) victims of intimate partner violence. Due to the potential scope of the project and funding needed to develop a national registry, OVW – as discussed with tribal leaders at previous consultation sessions – has decided to initially focus on development of the tribal protection order registry. Therefore, at the 2013 annual VAWA required consultation OVW seeks ideas on how best to develop a tribal protection order registry. OVW also asks tribal leaders to consider whether a tribal protection order registry, as provided for in Section 905(b) of VAWA 2005, is still needed and if such a registry is the best method to protect AI/AN victims of intimate partner violence, given subsequent legislative changes.

Tribal leaders and representatives from service provider programs may wish to consider the following statements, issues and questions concerning implementation of the tribal protection order registry provided for in Section 905(b) of VAWA 2005:

1. Section 905(a) of VAWA 2005 required the Attorney General to permit Indian law enforcement agencies, in cases of domestic violence, stalking, sexual assault and dating violence, to enter information into Federal criminal information databases and to obtain



information from the databases. This same statute, 28 U.S.C. § 534, was amended again with the passage of the Tribal Law and Order Act of 2010. The statute now states that “the Attorney General shall permit tribal and Bureau of Indian Affairs law enforcement agencies (1) to access and enter information in to Federal criminal information databases; and (2) to obtain information from the databases.” Access to these databases is no longer premised on the offense being a crime of domestic violence, stalking, sexual assault or dating violence. “National crime information databases” is defined as the National Crime Information Center (NCIC) and its incorporated criminal history databases, including the Interstate Identification Index. See 28 U.S.C. § 534(3)(A). NCIC is maintained and run by the FBI’s Criminal Justice Information Services (CJIS) Division. The FBI’s CJIS Division permits individual states access to NCIC, and it enters into a user agreement with every state outlining the terms and conditions of that state’s access to NCIC. Each state, in turn, has their own state-level CJIS that dictates policy and access to NCIC at the state level. Some states have laws or policies which, in effect, prohibit or limit tribe’s access to NCIC.

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

Orders issued by state courts should be entered into the NCIC POF and the State protection order registry within 24 hours after issuance by the court (or sooner, if required by State law or agency policy/procedures.) Tribes that enter their orders directly into the NCIC POF should also ensure that they enter protection orders into the NCIC POF within 24 hours after issuance by the tribal court. State jurisdictions that have executed agreements or memoranda of understanding (MOUs) with a tribal jurisdiction to enter tribal orders into the NCIC POF should enter tribal orders into the NCIC POF within 24 hours of receipt at the entering agency specified in the agreement or MOU. Delays in the entry of protection orders into the system present risks to the petitioner and other protected parties. Currently, just over 20 tribal criminal justice agencies submit tribal court protection orders for entry into the NCIC POF.

- **Does your tribe currently submit protection orders issued by your tribal court to the NCIC POF?**
- **If not, why doesn’t your tribe submit protection orders to the NCIC POF?**
- **Is your tribe interested in submitting tribal protection orders to the NCIC POF?**
- **What advantage do you or your tribal leaders see to submitting tribal protection orders to the NCIC POF?**



- **What can be done to increase the number of tribal courts and law enforcement agencies submitting tribal court protection orders to the NCIC POF?**
  - **Have criminal justice personnel and court staff for your tribe received training on NCIC and the NCIC POF? If not, has training been offered in your geographic region?**
  - **Given the relatively low number of tribes currently submitting orders of protection to the NCIC POF, are you concerned that few law enforcement agencies or tribal courts will submit orders to the tribal protection order registry called for in Section 905(b) of VAWA 2005?**
  - **The tribal protection order registry in Section 905(b) of VAWA 2005 likely will not interface with the NCIC POF. Does it concern you that inclusion of a tribal court protection order in the Section 905(b) registry may not be accessible to law enforcement and courts across the United States unless it is also included in the NCIC POF?**
3. VAWA 2005 is silent on whether Congress intended for the Section 905(b) tribal protection order registry to be law enforcement sensitive or accessible to any interested person. However, Federal law provides that *a State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction in either the issuing or enforcement State, tribal or territorial jurisdiction, if such a publication would be likely to publically reveal the identity or location of the partner protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.* (18 U.S.C. § 2265(d)(3)) Therefore, by virtue of federal law, any registry developed pursuant to VAWA 2005 cannot be entirely accessible to the general public.
- **Knowing that federal law restricts the public release of certain information regarding the application or granting of a protection order, does this change your opinion about how effective the Section 905(b) tribal protection order registry will be to keeping AI/AN victims of intimate partner violence safe?**
  - **What suggestions do you have for developing the non-public tribal protection order registry provided for in Section 905(b)?**
4. The usefulness of any registry is dictated, in part, by the number and accuracy of documents submitted. The Section 905(b) tribal protection order registry, once developed, will be a voluntary system meaning that no agency or court will be required by law to submit orders of protection to the registry.
- **What suggestions do you have to encourage tribal courts and tribal law enforcement agencies to submit protection orders issued by a tribal court to the Section 905(b) tribal protection order registry?**



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5. AI/AN victims of intimate partner violence may legally seek and secure a protection order from a state or local court. Section 905(b) of VAWA 2005 states that the tribal protection order registry will contain “civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.” The term “participating jurisdiction” is undefined in Section 905 of VAWA 2005. Therefore, the statute is unclear about whether the registry should include only those orders issued by a tribal court or also protection orders issued by a state or local court where the AI/AN petitioner or respondent is living, working or traveling in Indian country.
- **Should the Section 905(b) tribal protection order registry include only those orders issued by a tribal court or should it also include orders issued by state and local courts where either the petitioner or respondent is living, working or traveling in Indian country?**
  - **How should the term “participating jurisdiction” be interpreted?**
  - **If “participating jurisdiction” is interpreted to include state and local courts, what do you suggest be done to encourage the submission of state and local protection orders to the Section 905(b) tribal protection order registry?**
6. Federal law mandates that if a protection order issued by a state, tribal or territorial court meets certain minimum criteria it must be provided full faith and credit by other jurisdictions. Specifically, the court must have jurisdiction over the parties and matters under the law of that state, Indian tribe or territory, and the respondent must be provided reasonable notice and an opportunity to be heard sufficient to protect that person’s right to due process (18 U.S.C. § 2265(b)). Section 905(b) of VAWA does not include any language defining a qualifying order for purposes of submission to the tribal protection order registry.
- **Should tribal court protection orders meet certain minimum requirements, like jurisdiction over the parties and notice provisions, before they “qualify” for submission to the Section 905(b) tribal protection order registry?**
  - **Should a tribal court order submitted to the tribal protection order registry meet the requirements for full faith and credit as provided in 18 U.S.C. § 2265(b)?**
  - **If tribal court protection orders should meet certain minimum requirements for submission to the Section 905(b) tribal protection order registry, should there be an agency or entity tasked with verifying the minimum requirements have been met?**
7. Section 905(b) of VAWA 2005 states that the tribal protection order registry will contain “civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.” The use of the word “criminal” in the statute implies that a respondent may be subject to incarceration if adjudicated guilty for violating the protection order.
- **What types of criminal orders of protection should be included in the Section 905(b) tribal protection order registry?**



- **Should defendants who have a criminal order of protection entered against them be afforded certain minimum rights, like the right to law trained, licensed counsel, before such an order could be entered into the Section 905(b) tribal protection order registry?**
  - **If so, what are the minimum due process rights or protections that should be provided to the respondent in a criminal protection order case in tribal court?**
  - **If tribal court criminal orders of protection should meet certain minimum requirements for submission to the tribal protection order registry, should there be an agency or entity tasked with verifying the minimum requirements have been met?**
8. The National Crime Information Center (NCIC ) is a federal nationwide crime information system run by the FBI’s CJIS Division. The purpose for maintaining the NCIC system is to provide a computerized database for ready access by a criminal justice agency making an inquiry and for prompt disclosure of information in the system from other criminal justice agencies about crimes and criminals. This information assists authorized agencies in criminal justice and related law enforcement objectives, such as apprehending fugitives, locating missing persons, locating and returning stolen property, as well as in the protection of the law enforcement officers encountering the individuals described in the system. Information obtained from CJIS systems, including NCIC, is subject to laws and policies restricting their use to authorized purposes. Misuse of NCIC information can result in revocation of access to CJIS systems and criminal penalties.

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

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



- **Section 905 of VAWA 2005 provides that “the Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain a national tribal sex offender registry and a tribal protection order registry. What impact, if any, do you see to the effectiveness of the Section 905(b) tribal protection order registry if the developing agency is not covered by the definition of “criminal justice agency” and does not have NCIC access?**
- **How important is it to the safety of AI/AN victims of intimate partner violence to have the Section 905(b) tribal protection order registry developed by an agency or entity with direct NCIC access?**

Tribal leaders and representatives from service provider programs may wish to consider the following questions concerning the broader category of criminal justice information sharing and its impact on the safety of AI/AN victims of intimate partner violence:

9. VAWA 2005 created a new federal statute, 18 U.S.C. § 117, called Domestic Assault by an Habitual Offender. It punishes any person who commits a domestic assault in Indian country who has two prior federal, state, or **tribal court** convictions for offenses that would be—subject to federal jurisdiction—an assault, a sexual abuse offense, an offense under Chapter 110A, or a serious violent felony against a spouse or intimate partner. This crime is punishable by a prison term not to exceed five years. However, the maximum sentence is increased to ten years if the offense results in substantial bodily injury. In July 2011, the United States Courts of Appeals for the Eighth and Tenth Circuits upheld the constitutionality of 18 USC § 117. See *United States v. Cavanaugh*, 643 F.3d 592 (8<sup>th</sup> Cir. 2011), and *United States v. Shavanaux*, 647 F.3d 993 (10<sup>th</sup> Cir. 2011). Both courts rejected a constitutional challenge to the use of uncounseled tribal court convictions as predicates for prosecution under the Domestic Assault by an Habitual Offender statute. This new prosecutorial tool has increased the importance and necessity of police and prosecutors throughout the country to have immediate access to tribal court convictions via NCIC. Without the ability to quickly ascertain whether a suspect has previous convictions, prosecutors may make charging decisions without full knowledge of all possible charges which could be levied against a perpetrator.

- **Does your tribe submit tribal court convictions to NCIC?**
- **Given that the majority of tribes do not have direct NCIC access and instead access NCIC through state or local law enforcement, has your tribe experienced any barriers or obstacles to submitting tribal court convictions to the state or locals for entry into NCIC? If so, what is the nature of the problem or difficulty?**
- **Do you perceive any negatives to having tribal court convictions for violent crimes, to include domestic violence and sexual assault, entered into NCIC? What do you suggest be done to increase the number of tribal courts and law enforcement agencies submitting tribal court convictions for domestic assault to NCIC?**



- **Have criminal justice personnel and court staff for your tribe received training on federal domestic violence crimes like the offense of Domestic Assault by an Habitual Offender? If not, do you know if relevant training has been offered in your geographic region?**

10. Congress recently passed the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). VAWA 2013 recognizes tribes' inherent power 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 new provision generally takes effect on March 7, 2015, but the Act also authorizes a voluntary "pilot project" to allow certain tribes to begin exercising SDVCJ sooner. Tribes exercising SDVCJ will likely want to frequently access NCIC records as police and prosecutors for the tribe will need to know the criminal history of defendants and witnesses. Because non-Indians will not have previously been prosecuted in the tribal court where charges are currently pending, the best, most comprehensive way for a tribal criminal justice system to learn the criminal history of non-Indian defendants and witnesses is via NCIC.

- **Given that the majority of tribes do not have direct NCIC access and instead access NCIC through state or local law enforcement, has your tribe experienced any barriers or obstacles to submitting tribal court convictions to the state or locals for entry into NCIC? If so, what is the nature of the problem or difficulty?**
- **Does your tribal law enforcement agency or tribal court submit arrest and conviction information to NCIC via state or local law enforcement so that defendant information is readily available to other tribal, federal, state or local criminal justice officials?**

11. The National Instant Criminal Background Check System (NICS) is a national system that checks available records on persons who may be disqualified from receiving firearms. NICS was established for Federal Firearm Licensees (FFLs) to contact either the FBI or a designated state point of contact by telephone, or other electronic means, for information to be supplied immediately on whether the transfer of a firearm would be in violation of 18 U.S.C. §§ 922(g) and (n) or state law. Federal law provides several categories of person prohibited from using or possessing firearms and/or ammunition. The categories most relevant for the purpose of tribal court records include the following:

- A person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year (18 U.S.C. § 922(g)(1));
- An unlawful user and/or addict of any controlled substance (18 U.S.C. § 922(g)(3));
- A person who has been adjudicated as a mental defective or who has been committed to a mental institution (18 U.S.C. § 922(g)(4));
- The person who is subject to a qualifying protection order (18 U.S.C. § 922(g)(8));



- A person convicted in any court of a qualifying misdemeanor crime of domestic violence (18 U.S.C. § 922(g)(9)).

Prohibited persons found to have purchased or be in possession of a firearm or ammunition are subject to prosecution in federal court for violation of the Gun Control Act. The NICS Improvement Amendments Act of 2007 (NIAA) (Public Law 110-180) was an effort to strengthen the NICS by increasing the quantity and quality of relevant records from federal, state, and tribal authorities accessible by the system. The statute states that the primary cause of delay in NICS background checks “is the lack of updates and available State criminal disposition records.” On January 16, 2013, the White House issued a memorandum to the heads of executive departments and agencies that stated, in part, “the ability of the NICS to determine quickly and effectively whether an individual is prohibited from possessing or receiving a firearm depends on the completeness and accuracy of the information made available to it by Federal, State, and tribal authorities.” (See <http://www.whitehouse.gov/the-press-office/2013/01/16/presidential-memorandum-improving-availability-relevant-executive-branch>.)

In short, if a defendant were convicted today in tribal court of a qualifying misdemeanor crime of domestic violence and record of his conviction was not submitted to NCIC, that same defendant could travel off the reservation and illegally purchase a firearm. The FFL would receive no information from NICS that the defendant was a prohibited purchaser. Clearly, a firearm in the hands of a batterer presents a significant lethality risk for a victim of intimate partner violence, her family, her coworkers, innocent bystanders and the community.

- **What can be done to increase the number of tribal court convictions for qualifying misdemeanor crimes of domestic violence submitted to NCIC?**
- **Has your tribal law enforcement and tribal court staff received training on NICS, the Gun Control Act, and the importance of submitting conviction information to NCIC so that prohibited purchasers are not allowed to buy firearms and/or ammunition?**



October 2013

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

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

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### **Background:**

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

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

Due to changes in the statute, the Office on Violence Against Women (OVW) has initiated a series of listening sessions for STOP Program stakeholders to discuss possible amendments to the STOP Program regulation. OVW is interested in hearing thoughts from tribal leaders on the questions listed below, including, in particular, questions 8 and 9. In addition, tribes are invited to participate in a listening session scheduled for December 5, from 3 pm to 5 pm EST. To register for the listening session, please go to <https://ta2ta.org/events/webinars/tribal.html>.



## Questions for Consideration

1. Are there any terms that should be defined in the regulations, outside of the ones that are already defined in VAWA?
2. Are there other entities that should be included on the list of entities that states need to consult with in developing the implementation plan (see 42 U.S.C. § 3796gg-1(c)(2))?
3. What should be required as proof of “financial need” in a request for a match waiver by a state?
4. How should states document participation from planning committee members?
5. In addition to the items listed in 42 U.S.C. § 3796gg-1(i), are there other items that the Department should request as part of the implementation plan?
6. What should be required if a state wants to reallocate funds from an allocation category (victim services, law enforcement, courts, prosecution, culturally specific services) based on insufficient eligible applications?
7. What does it mean to “coordinate with health care providers in the region to notify victims of sexual assault of the availability of rape exams at no cost to the victims?”
8. How should states recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund culturally specific services and activities for underserved populations are distributed equitably among those populations?
9. What does it mean for a state to consult with tribes? This includes both whom they should include and how.
10. What are states doing to implement the Crystal Judson purpose area, particularly the required additional training for subgrantees under it.



*November 2013*

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**Consultation Question: Should OVW release a single solicitation in Fiscal Year 2014 that requests applications for both Tribal Sexual Assault Services Program (Tribal SASP) and Sexual Assault Services Culturally Specific Program (SAS CSP)?**

**Consultation Question: Should OVW make Tribal SASP awards available directly to tribal nonprofits, as authorized by the Violence Against Women Act of 2005?**

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For Fiscal Year (FY) 2014, the Office on Violence Against Women (OVW) is considering whether to issue one solicitation that would request applications for both our Tribal Sexual Assault Services Program (Tribal SASP) and Sexual Assault Services Culturally Specific Program (SAS CSP). Doing so will be a change for Tribal SASP applicants that previously have applied through the Coordinated Tribal Assistance Solicitation (CTAS) process. The purpose and scope of the two programs are well-matched, because both provide culturally specific direct advocacy services and assistance to victims of sexual assault. The solicitation will be open to federally recognized tribes and nonprofit, nongovernmental organizations meeting the culturally specific definition, including tribal nonprofits. All federal funds specifically appropriated for tribes under Tribal SASP would only be awarded to tribes and tribal nonprofits.

**Justification**

The primary purpose of the proposed change is to allow OVW the opportunity to accurately market Tribal SASP as a unique program with a specific focus on tribes and sexual assault. Each year that Tribal SASP was in the CTAS, OVW found that the majority of Tribal SASP applications included activities that were not allowable under Tribal SASP. Pulling Tribal SASP out of CTAS and including it in a separate solicitation with SAS CSP would allow OVW to clearly highlight sexual assault and service provision while providing clear guidance to tribes on the application process and the purpose of Tribal SASP. In addition, pulling Tribal SASP out of CTAS would permit OVW to make Tribal SASP awards directly to tribal nonprofits. (The Violence Against Women Act of 2005, which first authorized Tribal TSASP, provides that tribal nonprofits are eligible entities under the program. To date, OVW has only made these awards directly to tribes.) In the end, it is the goal of OVW that the new solicitation process assists tribal communities in submitting applications that meet the direct needs of tribal programs and sexual assault survivors.

**Clarifying Facts**

1. Appropriated dollars from Tribal SASP would go to tribal communities and dollars from SAS CSP would go to nonprofit culturally specific organizations, including tribal organizations.
2. The number of tribal communities receiving a Tribal SASP award would not be impacted.
3. OVW would conduct pre-application calls specifically for tribes, tribal organizations and tribal nonprofits, which would allow potential applicants to ask questions about the solicitation, allowable activities, and the application process.
4. OVW would announce the release of the combined solicitation via its listserv and through various tribal organizations.



**Out-of-Scope Activities**

Out-of-scope activities are those activities that fall outside the purpose of the grant program. In FY 2010 and FY 2012, many applicants included out-of-scope activities in their grant proposals, which required OVW to ask the applicant to revise the application by removing activities identified as out of scope. Examples of out-of-scope activities included by previous applicants include: prevention education, development of criminal codes, paying for forensic medical exams and/or supplies, funding of forensic medical examiner positions, and funding of Sexual Assault Response Team (SART) coordinator. OVW can fund these activities under its Tribal Governments Program but not Tribal SASP, which exclusively focuses on direct victim services.

<b>FISCAL YEAR APPROPRIATION</b>	<b>NUMBER OF TRIBAL SASP AWARDS MADE</b>	<b>PERCENTAGE OF OUT-OF-SCOPE ACTIVITIES</b>
FY 2008: \$ 940,000	No awards made. <sup>5</sup>	Not applicable.
FY 2009: \$1,200,000		
FY 2010: \$1,500,000	38 applications received; 12 awards – all new. <sup>6</sup>	Approximately 50% of the applications required revisions to the project narrative to remove out-of-scope activities.
FY 2011: \$1,537,000	No awards made. <sup>7</sup>	Not applicable.
FY 2012: \$2,300,000	36 applications received; 13 awards – all new. <sup>8</sup>	Approximately 30% of the applications required revisions to the project narrative to remove out-of-scope activities.
FY 2013: \$2,328,114	Invitation-only process to continuation grantees. 6 applications received; 6 awards made.	As continuation projects, all were in scope.

<sup>5</sup> In FY 2009, OVW included Tribal SASP within the Tribal Governments solicitation. No viable applications were received and no awards were made.

<sup>6</sup> During the FY 2010 funding cycle, awards were made with dollars appropriated in FY 2008, 2009, and 2010. Tribal SASP was a part of the CTAS process and fundable applications were received.

<sup>7</sup> In FY 2011, Tribal SASP was a part of the CTAS. However, Tribal SASP and Tribal Governments were combined in one purpose area. As a result, no viable Tribal SASP applications were received and all awards made were with Tribal Governments funding. No awards were made under Tribal SASP.

<sup>8</sup> During the FY 2012 funding cycle, awards were made with dollars appropriated in FY 2011 and 2012.

*Office for Victims of Crime  
Indian Health Service  
Federal Bureau of Investigation  
National Institute of Justice*



**Consultation Question:** *What is the best way for OVC and its Initiative partners to provide information about the new TTA resource to Tribal leadership so that Tribal leaders are included at the outset of any TTA delivery and invested in its success?*

**Consultation Question:** *What are the best ways to provide outreach to tribes about the telemedicine center opportunity? Are tribes involved with existing telemedicine networks that OVC and out partners can connect with?*

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*Improving the Response to Sexual Violence*

**Background**

The Office for Victims of Crime (OVC), has launched two initiatives, in partnership with the Federal Bureau of Investigation (FBI), the Indian Health Service (IHS), the Office on Violence Against Women (OVW), and the National Institute of Justice (NIJ), summarized below, that are aimed at improving the response to sexual violence in tribal communities. We are interested in learning from tribal leaders how we can make the best use of these resources to provide appropriate training and resources to tribal communities and ensure effective communication about our efforts.

Tailored Training and Technical Assistance Project (TTTAP)

The overall goal of TTTAP is to provide training and technical assistance (TTA) on the establishment of coordinated community sexual violence responses customized for the Tribal communities receiving the support. The tailored TTA will begin with a Tribal Council resolution, followed by a comprehensive community needs assessment and gap analysis. The TTA will be specifically designed to support the Tribe and federal, state, and local stakeholders in their efforts to establish a victim-centered, culturally-relevant coordinated community response to adult and child victims of sexual violence. The efforts of the TTTAP is built on tribal feedback through demonstration sites, prior tribal consultations and working groups.

Sexual Assault Forensic Medical Exam Telemedicine Center

In 2012, OVC partnered with the National Institute of Justice to award funds to the Massachusetts Department of Public Health to establish a National Sexual Assault TeleNursing Center. The Center will provide 24/7, 365 days-a-year remote expert consultation by Massachusetts Sexual Assault Nurse Examiners to clinicians caring for adult and adolescent sexual assault patients. Four national pilot sites serving priority populations will be selected to partner with the TeleNursing Center for this demonstration project. The four pilot sites will include a tribal community. MDPH, IHS, and National Indigenous Women's Resource Center are working closely to identify the tribal pilot site. The TeleNursing Center is expected to be fully operational by January 2014. The tribal pilot site selection will occur in January 2014. More information is available at [www.mass.gov/dph/telenursing](http://www.mass.gov/dph/telenursing).

**Appendix B – Analysis of OVW Tribal Grant Programs Funding for FY 2014**

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

	<b>Tribal Governments<sup>9</sup></b>	<b>Tribal Coalitions<sup>10</sup></b>	<b>Tribal Sexual Assault Services<sup>11</sup></b>
<b>FY 2014 Appropriation</b>	\$35,465,000.00	\$6,216,429.00	\$2,700,000.00
<b>Prior Year Carry Forward &amp; Recoveries<sup>12</sup></b>	\$1,595,031.00	\$108,229.00	\$561,528.00
<i>Technical Assistance &amp; Evaluation Reduction</i>	-\$2,007,939.00	-\$750,760.00	\$0
<i>FY 2014 Rescission<sup>13</sup></i>	-\$1,394,327.00	-\$90,314.00	-\$561,528.00
<i>Salaries &amp; Expenses Reduction<sup>14</sup></i>	-\$1,725,727.00	-\$302,491.00	\$0
<b>Amount available for FY 2014 grants</b>	\$31,532,038.00 <sup>15</sup>	\$5,181,093.00	\$2,700,000.00
<b>Amount awarded in FY 2014</b>	\$31,532,019.00	\$5,181,085.00	\$2,379,689.00
<b>Remaining balance</b>	\$19.00	\$8.00	\$320,311.00 <sup>16</sup>

<sup>9</sup> In FY 2014, the Tribal Governments program was funded through the appropriation for seven other OVW grant programs and did not receive its own appropriation line.

<sup>10</sup> In FY 2014, the Tribal Coalition program was funded through the appropriation for the STOP, Arrest, and Sexual Assault Services Programs and did not receive its own appropriation line.

<sup>11</sup> This column includes funding made available specifically for tribal sexual assault activities under the Sexual Assault Services Program appropriation.

<sup>12</sup> The Prior Year Carry Forward amount includes both funds that were not obligated in the prior year and funds that were deobligated. Deobligated funds and recoveries are funds that are returned after the end of a grant award for any number of reasons.

<sup>13</sup> The FY 2014 appropriation included a \$12.2 million rescission of OVW budget authority. This amount was distributed across a number of OVW programs, including these three programs.

<sup>14</sup> In FY 2014, OVW did not receive an appropriation for management and administration expenses. As a result, OVW assessed the majority of its grant programs to cover management and administration expenses.

<sup>15</sup> The amount available for FY 2014 awards does not include \$400,000 that was transferred to the Bureau of Justice Assistance to support Purpose Area 2 of the Coordinated Tribal Assistance Solicitation, which is a comprehensive justice system strategic planning purpose area.

<sup>16</sup> One successful applicant withdrew from consideration before its \$310,000 award was made; if all awards had been made as planned, the remaining balance would have been \$10,311.00.

**Appendix C – FY 2014 OVW Tribal Grant Awards**

<b>Grantee</b>	<b>Award Amount</b>	<b>Solicitation</b>
Cherokee Nation	\$884,625.00	FY 14 CTAS 5 TGP
Cheyenne River Sioux Tribe	\$812,373.00	FY 14 CTAS 5 TGP
Chippewa Cree Tribe	\$389,701.00	Elder FY 2014
Choctaw Nation of Oklahoma	\$899,990.00	FY 14 CTAS 5 TGP
Choctaw Nation of Oklahoma	\$997,662.00	Rural FY 2014
Colorado River Indian Tribes	\$353,168.00	FY 14 CTAS 5 TGP
Confederated Salish and Kootenai Tribes	\$308,092.00	Rural FY 2014
Confederated Tribes of Colville	\$547,000.00	FY 14 CTAS 5 TGP
Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians	\$400,000.00	FY 14 CTAS 5 TGP
Confederated Tribes of Siletz Indians	\$471,248.00	FY 14 CTAS 5 TGP
Confederated Tribes of the Umatilla Indian Reservation	\$707,547.00	FY 14 CTAS 5 TGP
Cook Inlet Tribal Council, Incorporated	\$999,955.00	ConsYth Cmp FY14
First Nations Women's Alliance	\$150,000.00	BKN Resp FY 14
First Nations Women's Alliance	\$398,545.00	Tribal Coal FY14
Fort Belknap Indian Community	\$832,195.00	FY 14 CTAS 5 TGP
Fort McDowell Yavapai Nation	\$370,674.00	FY 14 CTAS 5 TGP
Fort Peck Assiniboine and Sioux Tribes	\$439,823.00	BKN SAUSA FY 14
Ft. Peck Assiniboine and Sioux Tribes	\$250,000.00	BKN Resp FY 14
Hopland Band of Pomo Indians	\$450,000.00	FY 14 CTAS 5 TGP
Iipay Nation of Santa Ysabel	\$311,286.00	FY 14 CTAS 5 TGP
Indian Township Tribal Government	\$450,000.00	FY 14 CTAS 5 TGP
Inter Tribal Council of Nevada	\$416,168.00	FY 14 CTAS 5 TGP
InterTribal Council of California, Incorporated	\$697,000.00	FY 14 CTAS 5 TGP
Karuk Tribe	\$543,525.00	FY 14 CTAS 5 TGP
Ketchikan Indian Corporation	\$899,999.00	FY 14 CTAS 5 TGP
Keweenaw Bay Indian Community	\$868,272.00	FY 14 CTAS 5 TGP
Kickapoo Tribe in Kansas	\$449,824.00	FY 14 CTAS 5 TGP
La Jolla Band of Luiseno Indians	\$733,057.00	FY 14 CTAS 5 TGP
Legal Aid of Nebraska	\$765,183.00	FY 14 CTAS 5 TGP
Legal Aid of Wyoming, Incorporated	\$450,000.00	FY 14 CTAS 5 TGP
Little River Band of Ottawa Indians	\$446,400.00	FY 14 CTAS 5 TGP
Little Traverse Bay Bands of Odawa Indians	\$400,000.00	Families FY 2014
Little Traverse Bay Bands of Odawa Indians	\$325,000.00	TSASP FY 2014
Los Coyotes Band of Indians	\$414,923.00	FY 14 CTAS 5 TGP
Lower Elwha Klallam Tribe	\$550,000.00	FY 14 CTAS 5 TGP
Lummi Nation	\$450,000.00	FY 14 CTAS 5 TGP

<b>Grantee</b>	<b>Award Amount</b>	<b>Solicitation</b>
Minnesota Indian Women's Sexual Assault Coalition	\$398,545.00	Tribal Coal FY14
Montana Legal Services Association	\$368,240.00	FY 14 CTAS 5 TGP
Montana Native Women's Coalition	\$398,545.00	Tribal Coal FY14
Muscogee Creek Nation	\$872,000.00	FY 14 CTAS 5 TGP
Muscogee Creek Nation	\$286,346.00	TSASP FY 2014
Native Alliance Against Violence, Incorporated	\$398,545.00	Tribal Coal FY14
Native Women's Coalition	\$398,545.00	Tribal Coal FY14
Native Women's Society of the Great Plains	\$398,545.00	Tribal Coal FY14
Navajo Nation	\$450,000.00	FY 14 CTAS 5 TGP
Nez Perce Tribe	\$607,716.00	FY 14 CTAS 5 TGP
Nooksack Indian Tribe	\$450,000.00	FY 14 CTAS 5 TGP
Northern Arapaho Tribe	\$898,000.00	FY 14 CTAS 5 TGP
Northern California Tribal Court Coalition	\$200,000.00	Families FY 2014
Omaha Tribe of Nebraska	\$450,000.00	FY 14 CTAS 5 TGP
Organized Village of Kake	\$369,169.00	FY 14 CTAS 5 TGP
Pauma Band of Mission Indians	\$849,290.00	FY 14 CTAS 5 TGP
Pleasant Point Passamaquoddy Tribe	\$790,960.00	FY 14 CTAS 5 TGP
Ponca Tribe of Nebraska	\$450,000.00	FY 14 CTAS 5 TGP
Port Gamble S'Klallam Tribe	\$449,513.00	FY 14 CTAS 5 TGP
Prairie Band Potawatomi Nation	\$220,000.00	TSASP FY 2014
Puyallup Tribe of Indians	\$278,373.00	TSASP FY 2014
Restoring Ancestral Winds, Incorporated	\$398,545.00	Tribal Coal FY14
Rosebud Sioux Tribe	\$900,000.00	FY 14 CTAS 5 TGP
Sac and Fox Nation of Missouri	\$547,482.00	FY 14 CTAS 5 TGP
San Carlos Apache Tribe	\$450,000.00	FY 14 CTAS 5 TGP
Sault Ste. Marie Tribe of Chippewa Indians	\$877,208.00	FY 14 CTAS 5 TGP
Sault Ste. Marie Tribe of Chippewa Indians	\$499,072.00	LAV FY 2014
Seneca-Cayuga Tribe of Oklahoma	\$842,000.00	FY 14 CTAS 5 TGP
Shoshone-Bannock Tribes	\$732,417.00	FY 14 CTAS 5 TGP
Skokomish Indian Tribe	\$508,770.00	FY 14 CTAS 5 TGP
Southern Indian Health Council, Incorporated	\$255,484.00	FY 14 CTAS 5 TGP
Southern Ute Indian Tribe	\$410,000.00	FY 14 CTAS 5 TGP
Southwest Indigenous Women's Coalition	\$398,545.00	Tribal Coal FY14
Spirit Lake Sioux Tribe	\$899,901.00	FY 14 CTAS 5 TGP
Squaxin Island Tribe	\$412,149.00	FY 14 CTAS 5 TGP
Strong Hearted Native Women's Coalition, Incorporated	\$500,000.00	LAV FY 2014
Strong Hearted Native Women's Coalition, Incorporated	\$310,000.00	TSASP FY 2014
Strong Hearted Native Women's Coalition, Incorporated	\$398,545.00	Tribal Coal FY14
Tanana Chiefs Conference	\$421,533.00	FY 14 CTAS 5 TGP

<b>Grantee</b>	<b>Award Amount</b>	<b>Solicitation</b>
Tewa Women United	\$365,000.00	CLSSP FY 2014
Three Affiliated Tribes	\$449,480.00	FY 14 CTAS 5 TGP
Three Affiliated Tribes of Ft. Berthold	\$343,391.00	BKN Resp FY 14
Three Affiliated Tribes of Ft. Berthold	\$450,000.00	BKN SAUSA FY 14
Tribal Government of St. Paul Island Aleut Community	\$324,970.00	TSASP FY 2014
Tulalip Tribes of Washington	\$899,986.00	FY 14 CTAS 5 TGP
United Tribes Technical College	\$299,872.00	Campus FY 2014
Uniting Three Fires Against Violence	\$398,545.00	Tribal Coal FY14
Wabanaki Women's Coalition, Incorporated	\$398,545.00	Tribal Coal FY14
Washington State Native American Coalition	\$398,545.00	Tribal Coal FY14
White Mountain Apache Tribe	\$446,263.00	FY 14 CTAS 5 TGP
Wiconi Wawokiya, Incorporated	\$325,000.00	TSASP FY 2014
Wise Women Gathering Place	\$352,416.00	Housing FY 2014
Wise Women Gathering Place	\$310,000.00	TSASP FY 2014
Yavapai-Apache Nation	\$300,000.00	FY 14 CTAS 5 TGP
Yupik Women's Coalition	\$398,545.00	Tribal Coal FY14
<b>TOTAL</b>	<b>\$46,037,776.00</b>	

## Appendix D – Tribal Crime and Justice Research & Evaluation Studies



### Tribal Crime and Justice Research & Evaluation Studies

#### [NIJ's Program of Research Examining Violence Against American Indian \(AI\) and Alaska Native \(AN\) Women living in Indian Country and Alaska Native villages](#)

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

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

#### *National Baseline Study (NBS) to Examine Violence Against Indian Women (VAIW) living in Indian Country*

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

NIJ directed a research methods pilot study. This study was developed with input from tribal stakeholders to help ensure that NIJ's forthcoming National Baseline Study would be viable, culturally and community appropriate, respectful of those involved, and that the information collected would be relevant and helpful. With the approval of tribal leadership, several tribal communities were selected and agreed to pilot test the VAIW survey and methods for selecting and recruiting survey participants. The VAIW pilot study was conducted from November 2011 through March 2012.

##### *Phase II: VAIW National Baseline Study (NBS) (2014 to 2017)*

The 42-month National Baseline Study is the first comprehensive national effort of its kind that will examine domestic violence, sexual assault, and stalking committed against AI and AN women living in Indian Country and Alaska Native villages. It also will: identify factors that place these women at risk for victimization; improve our understanding of the programmatic, service and policy needs of the women in these communities; and it will educate and inform policymakers and the public about the health and wellbeing of AI and AN women.



Under the direction of NIJ, the *National Baseline Study Research Contractor* (NBSRC) and the *National Baseline Study Data Center Contractors* (NBSDCC) have implemented a study of public safety and public health among AI and AN women living in Indian Country and Alaska Native villages consistent with the general approach and methods developed for [NIJ's VAIW pilot study](#). The study is being conducted in geographically dispersed tribal communities across the U.S. (lower 48 and Alaska) using a NIJ-developed sampling strategy for which the primary aim is to provide an accurate *national* victimization rate of violence against adult AI and AN women specifically living in tribal communities.

The research team includes American Indian researchers from the American Indian Development Associates LLC (AIDA) in Albuquerque, New Mexico and their partners at the University of Nevada Las Vegas' School of Community Health Sciences. AIDA is an Indian and woman-owned research firm. RTI International, an independent, nonprofit institute that provides research, development, and technical services, was awarded the data center contract. Whereas AIDA has primary responsibility for implementing and managing the tribal research sites that comprise the study sample, RTI International is responsible for data collection processing and data management of the study.

NBS data collection is expected to begin in 2015 after Office of Management and Budget, participating Tribal Nations', and multiple Institutional Review Boards' approval have been obtained and documented. Data collection is expected to continue into early 2017 with study findings released in the fall of 2017.

***NIJ Tribal Visiting Executive Research Fellowship Capstone Project: Lifetime prevalence of interpersonal and sexual violence of self-identified AI and AN men and women living in the U.S. (2012-2014)***

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

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



Dr. André Rosay, NIJ Visiting Executive Research Fellow and Director of the Justice Center at the University of Alaska, Anchorage, has been conducting analyses of these data. When completed, this study will provide the first set of estimates from a national large-scale survey of victimization among self-identified AI and AN men and women on psychological aggression, coercive control and entrapment, physical violence, stalking, and sexual violence, using detailed behaviorally specific questions. Study findings are expected to be released at the 14<sup>th</sup> National Indian Nations Conference to be convened December 2014.

### **Evaluation of the Effectiveness of Federal, State, Local, and Tribal Responses to Violence Against Indian Women in Tribal Communities**

#### ***The Oklahoma Lethality Assessment Program: An Experimental Study (NCJRS#: 247456)***

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

While additional research needs to be conducted, the LAP study demonstrates promise as an evidence informed collaborative police-social service intervention that increases survivors' safety and empowers them toward decisions of self-care. At the upcoming 14<sup>th</sup> Indian Nations Conference, the research team will present findings and the implications for Native American victims of intimate partner violence based on a subsample of American Indian women who participated in the Oklahoma study. They also will describe how the Domestic Violence Risk Assessment, including the Danger Assessment Circle, were created specifically for indigenous women.

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

Building on lessons learned from previously funded research and programs such as Safe Start, the Child Development-Community Policing Program, and the Greenbook Initiative, Defending Childhood leverages existing resources across the U.S. Department of Justice (DOJ) to focus on preventing, addressing, reducing, and more fully understanding childhood exposure to violence. In 2010, DOJ awarded grants to eight sites in cities and two tribal communities around the country to develop strategic plans for comprehensive community-based efforts that will further demonstrate the goals of this initiative. Researchers from the Center for Court Innovation are working with two Native American communities (i.e., the Rosebud Sioux and the Chippewa Cree/Rocky Boy Tribes) as part of the Attorney General's Defending Childhood Initiative. The



process evaluation will ultimately allow the research team to provide a rich account of what each site's local initiative look like.

At the upcoming 14<sup>th</sup> Indian Nations Conference, the research team will: (1) present findings from the cross site evaluation's community survey, and highlight the work addressing children's exposure to violence in these tribal communities as well as knowledge of and attitudes towards children's exposure to violence; (2) describe the models used by the two Tribes to prevent, treat, and raise awareness about children's exposure to violence, emphasizing the role of culture; (3) discuss local challenges with implementing programs to address children's exposure to violence; and (4) provide recommendations for other Native American communities looking to prevent, treat, and raise awareness about children's exposure to violence.

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

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

Study findings have provided a clearer understanding of existing issues in the justice system's responses to violence against AI and AN women that should improve law enforcement, prosecution, and judicial responses including interagency coordination and communication; increase training and outreach efforts; build victims' trust in law enforcement; encourage reporting of victimization; and, ultimately, reduce violence among AI and AN women living in tribal communities.

Findings from this study will be presented at the upcoming 14<sup>th</sup> National Indian Nations Conference to be convened December 2014.

### **NIJ Investigator-Initiated Tribal Research & Evaluation Solicitations & Awards**

#### ***Fiscal Year 2013 Evaluating the Effectiveness of State, Local, and Tribal Responses to Violence Committed Against Indian Women Living in Tribal Communities Solicitation***

NIJ released a solicitation in early 2013 seeking research proposals to conduct evaluations of promising programs that effectively respond to violence against Indian women living in tribal communities managed by state, local, or tribal governments.



In September 2013, NIJ awarded the University of Alaska Anchorage's Justice Center a research grant titled *An Innovative Response to an Intractable Problem: Using Village Public Safety Officers to Enhance the Criminal Justice Response to Violence Committed Against Indian Women in Alaska's Tribal Communities* (Award #2013-VW-CX-0001).

Through the use of detailed case file reviews and focus group discussions with Village Public Safety Officers (VPSO), as well as community and criminal justice stakeholders, this project will examine the contributions VPSOs make to the community and criminal justice responses to violence committed against Indian women in Alaska's tribal communities. Specific attention will be paid to the impact VPSOs have on the investigation of domestic violence, sexual assault, sexual abuse of a minor, and homicide cases, as well as the extent to which VPSOs facilitate the prosecution of those who commit violence against Indian women in Alaska's tribal communities. The overarching goal of the proposed project is to evaluate and document empirically the impact Alaska's VPSO initiative is having on the investigation and prosecution of those who commit acts of sexual and domestic violence, as well as homicide, against Indian women in Alaska's tribal communities. A secondary goal of this study is to assess the potential transferability of the VPSO model to other tribal communities in the lower 48 states.

Preliminary study findings will be presented at the upcoming 14<sup>th</sup> National Indian Nations Conference to be convened December 2014.

### ***Fiscal Year 2013 NIJ Native American Crime, Victimization, and Justice Studies Postdoctoral Fellowships Solicitation***

The purpose of this solicitation was to seek applications for funding for one or more postdoctoral fellows. As the principal research agency within the U.S. Department of Justice, NIJ is dedicated to improving knowledge and understanding of crime and justice issues through science. NIJ's fellowship programs offer scientists an opportunity to participate full-time in research addressing tribal crime, victimization, and justice issues relevant to the work of NIJ and public policy. This solicitation was expected to further the Department's mission by facilitating collaboration between academic scholars and government researchers by offering scientists an opportunity to participate full-time in research addressing tribal issues.

In September 2013, NIJ awarded a Postdoctoral Research Associate Fellowship position to Dr. Alison Brooks Martin (Award # 2013-PJ-BX-K001). Dr. Brooks Martin has been conducting two research studies during her tenure at NIJ. The first study, *Evaluability Assessment of the OVW-funded Tribal Special Assistant United States Attorney (SAUSA) Program*, aims to document the implementation of the SAUSA program and determine its readiness for an evaluation. The tribal SAUSA program's goal is to hire eligible tribal prosecutors to pursue violence against women cases in both tribal and federal courts and to enhance collaboration between tribal communities and federal prosecutors to increase the likelihood that viable criminal offenses are prosecuted in tribal court, federal court, or both.



Dr. Brooks Martin's second study is titled *State Response to Crimes Against Women in Indian Country*. This study will investigate the state response, in part, by interviewing tribal law enforcement, prosecutors, and victim advocates as well as state law enforcement, prosecutors, and victim services staff in Public Law 280 states. The purpose of these interviews are to obtain information about their experiences responding to crimes against women, what is going well, what could be improved, and to learn about any promising practices in the field. This study uses similar methods and instruments used in the *Federal and Tribal Response Study* for which Dr. Brooks Martin was the principal investigator.

Findings from these studies will be presented at the upcoming 14<sup>th</sup> National Indian Nations Conference to be convened December 2014.

***Fiscal Year 2013 Exploratory Research on the Impact of the Growing Oil Industry in North Dakota and Montana on Domestic Violence, Dating Violence, Sexual Assault, and Stalking Solicitation***

In September 2013, NIJ awarded a research grant to the University of North Dakota (Award # 2013-ZD-CX-0072) to examine the impact of the Bakken oil development on domestic violence, dating violence, sexual assault, and stalking. The impact of increased interpersonal violence, or perceptions of an increase, will be studied.

Informed by a preliminary study of this topic by the study's principal investigators, the multidisciplinary research team is conducting a mixed-method exploratory research study. The quantitative component includes a trend analysis of secondary data from 2002-2014 on the incidence and distribution of these interpersonal crimes in 33 oil-impacted counties and two reservations in North Dakota and Montana (Fort Peck Assiniboine & Sioux Tribes and Fort Berthold MHA Nation), including geo-mapping. The qualitative component includes focus groups with elected officials; attorneys and law enforcement; victim service providers; health and human service workers; community members; and tribal members in oil-impacted communities. In addition, 80 qualitative interviews with key informants including victims, community members, first responders, clergy, law enforcement, hospital personnel, social service workers, school principals, victim service providers, local and state attorneys, elected officials, and oil industry leaders are being conducted. Established laws and policies also will be examined from a victim-based policy perspective.

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



It is anticipated that this empirical research will help government officials and policymakers, legal and criminal justice officials, oil industry executives, and health and human service professionals to develop policies and best practices to address interpersonal violence in the region impacted by the oil boom.

Findings from this study are expected to be released in late 2016.

### **Fiscal Year 2014 NIJ Tribal Research & Evaluation Solicitations**

#### ***Methodological Research to Support NIJ's Program of Research Examining Violence and Victimization of American Indian (AI) and Alaska Native (AN) Youth***

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

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

The sample includes tribal youth 12 to 20 years of age. Cognitive testing will be conducted in four tribal communities (one in Alaska and three in the lower 48). The pilot test involves the use of at least two but no more than three different administration modes (e.g., face-to-face interviews, self-administered questionnaire in paper and pencil format, audio computer assisted self-administered interviews, computer assisted telephone interviews).

Among the key outcomes that will be examined are the response and refusal rates, missing data, interview length, willingness to disclose sensitive information, respondent comfort, cost, the ability to provide assistance to respondents, and the ease and adequacy of the human subjects' protocol.

The study is anticipated to begin in early 2015 and end in 2017.



Any questions about any of these studies should be directed to:

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**Report to Congress on the Eighth Annual Government-to-Government  
Violence Against Women Tribal Consultation:  
Section III, Coordination and Collaboration**

Administering the Office on Violence Against Women's Grants to Indian Tribal Governments Program

A critical area of coordination and collaboration with tribes and other federal agencies involves federal funding to address sexual assault, domestic violence, dating violence, and stalking in tribal communities. In particular, the Department of Justice (DOJ) and the Office on Violence Against Women (OVW) have worked closely with tribes and our federal partners to improve administration of OVW's Grants to Indian Tribal Governments Program (Tribal Governments Program).

In 2009, based on a series of meetings across the country addressing violent crime in tribal communities, DOJ made the decision to decrease the number of applications tribes and tribal consortia were required to submit to receive grant funds. In 2010, DOJ launched its first ever Coordinated Tribal Assistance Solicitation (CTAS), which combined DOJ's existing tribal government-specific competitive solicitations, including OVW's Tribal Governments Program, into one solicitation and thus required only one application from each tribe or tribal consortium. This coordinated approach provides federally recognized tribes and tribal consortia the opportunity to develop a comprehensive approach to public safety and victimization issues.

Over the past five years, through numerous meetings, tribal written comments, tribal consultations, focus groups, and listening sessions, DOJ has continued to refine CTAS. In addition, DOJ has circulated an assessment tool to tribes each year to gather feedback about their experience applying for funding through CTAS. Most recently, DOJ incorporated feedback from the tribal meetings and consultations and the assessment tool into the Fiscal Year 2015 CTAS, which was issued in November 2014. The Bureau of Indian Affairs (BIA) at the Department of Interior also provides input into each year's CTAS, including Purpose Area #5, the Violence Against Women Tribal Governments Program. This collaborative process for refining the CTAS will continue in future fiscal years.

Beginning with the First Annual Violence Against Women Tribal Consultation in 2006, OVW has engaged in an ongoing consultation process with tribal leaders regarding how best to administer funding to tribes through the Tribal Governments Program. In 2012, OVW initiated a focused discussion with tribal leaders and advocates on whether OVW should shift from a competitive, discretionary model for distributing these funds to an annual formula distribution, as had been suggested at prior consultations. After OVW provided a discussion paper at the 2013 consultation outlining hypothetical formulas and showing how each would affect the award size for seven tribes of differing population size, there was no consensus among tribal leaders. At the request of tribes at the consultation, OVW formed a working group of tribal leaders and advocates who volunteered to continue discussion of the issue; during the course of FY 2014, OVW also sought additional opportunities to explore the issue with tribal leaders and stakeholders. From these sessions, OVW compiled dozens of comments from tribes and tribal

organizations and then shared the substance of these comments with the working group, requesting the group's input on whether OVW should continue to consider a change to formula funding. The working group, while supporting the *principle* of formula funding, reached consensus that there were too many hurdles to implementing formula funding at the time and for OVW funding alone. The working group noted that, with current funding levels, it is impossible to accomplish the goals of both providing basic services at all tribes *and* maintaining comprehensive, successful programs at others. Some members also noted the extraordinary difficulty of identifying a fair formula that would account for many different variables. After considering the views of tribal leaders, advocates, and the working group, OVW decided to continue to administer the program on a competitive, discretionary basis while continuing or enhancing the following steps to advance several of the underlying goals of the formula proposal:

- Provide tribes with technical assistance to help tribes successfully compete for funding from other OVW programs.
- Defer new Tribal Governments Program awards to tribes that have large outstanding balances on existing awards. If sufficient funding exists to continue grant-funded activities until the next funding cycle, OVW likely will not make an award so that funding can extend to more tribes.
- Give priority to tribes that have not received Tribal Governments Program funding in the two most recent fiscal years.
- Adjust the maximum available award under the Tribal Governments Program to ensure available funds can reach more tribes.
- Issue three-year awards under the Tribal Governments Program rather than two-year ones.
- Provide the greatest possible notice to tribes each fiscal year of OVW plans for the Tribal Governments Program so that tribes may plan in advance for funding changes.

OVW deeply appreciated the willingness of many tribal leaders and advocates to engage with OVW regarding this important and complex issue.

### Enhancing the Safety of Indian Women and Strengthening the Federal Response

**Access to Federal Criminal Databases.** Tribal leaders have long told DOJ leadership about numerous obstacles that tribal police and tribal courts face to accessing Criminal Justice Information Services Division (CJIS) services, including the ability to query and submit information into the National Crime Information Center (NCIC) database. DOJ has been working assiduously the past several years to assist tribes that are interested in securing greater access to NCIC, including launching a pilot project through which more than 20 tribes have obtained direct NCIC access via DOJ's Justice Telecommunications System (JUST). While the pilot project has not solved the issue for all tribes, it is one step in what DOJ hopes will be a comprehensive solution. These efforts have involved and will continue to involve close coordination and collaboration with tribes, a number of DOJ components, and BIA.

The NCIC database includes a Protection Order File (NCIC POF), which was developed to serve as the national registry for protection orders issued in state and tribal courts. The NCIC POF is a voluntary system and is designed to facilitate the enforcement of protection orders and federal firearm laws. Some tribes have the ability to enter protection orders directly into NCIC and some tribes have executed agreements for state or local officials to enter the orders on their behalf. During Fiscal Year 2014, DOJ, working in concert with BIA, researched the number of tribal police departments and tribal courts submitting orders of protection into the NCIC POF. The number of tribal protection orders entered into NCIC POF steadily increased from a total of 207 as of August 2012 to 559 as of July 2014. Protection orders entered into the NCIC POF are reviewable by all criminal justice agencies with NCIC access, which is critically important to both protection order enforcement and background checks requested of the National Instant Criminal Background Check System prior to the transfer of a firearm to a potential firearm buyer. Tribal leaders have emphasized the importance of ensuring that tribal orders are in the NCIC POF at tribal consultations, including the 2013 consultation. DOJ will continue to work with tribes and BIA to increase the number of tribal protection orders entered into the NCIC POF. The Department anticipates working with BIA to provide an updated number to tribal leaders at the next annual VAW Tribal Consultation in November, 2015.

**Implementation of VAWA 2013's Special Domestic Violence Criminal Jurisdiction.** Section 904 of VAWA 2013 recognizes 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. The *2014 Update on the Status of Tribal Consultation Recommendations* describes DOJ’s implementation of a statutorily-authorized pilot project for tribes exercising this jurisdiction prior to the effective date of the VAWA 2013 provision (March 7, 2015), including the February 2014 designation of three pilot tribes. Implementation of the SDVCJ pilot project was a model of collaboration between DOJ, the Department of Interior, and the tribes. As mandated by Section 908 of the Act, DOJ coordinated with the Department of Interior and consulted with affected Indian tribes before concluding that the requesting tribes had adequate safeguards in place to protect defendants’ rights. Representatives from the Office of the Solicitor at the Department of Interior and BIA reviewed and evaluated each tribal application to participate in the pilot project and met with DOJ officials and staff to reach consensus whether to designate a pilot tribe.

The *2014 Update* also describes DOJ’s establishment, in response to tribal consultation recommendations, of 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, as well as DOJ’s support of the ITWG with training and technical assistance. All of these efforts to support the implementation of SDVCJ involve close collaboration and coordination with Indian tribes and BIA. For example, the ITWG includes representatives from more than 40 tribes who are working together and with technical assistance providers to identify the best ways to implement SDVCJ in their communities. With funding from OVW, the ITWG has to date held four in-person meetings, each of which was attended by subject-matter experts from multiple DOJ components, as well as the Department of Interior.

**National Indian Country Training Initiative.** In July 2010, the Executive Office for United States Attorneys launched the National Indian Country Training Initiative (NICTI) to ensure that federal agents and prosecutors, as well as state and tribal criminal justice personnel, receive the training and support needed to address the particular challenges relevant to Indian country prosecutions. This training effort is led by DOJ's National Indian Country Training Coordinator.

Since its creation, the NICTI has delivered residential training at the National Advocacy Center (NAC) in Columbia, South Carolina, webinars and regional training for federal agencies, tribes and technical assistance providers to thousands of federal, state and tribal stakeholders on a host of criminal justice issues. Importantly, the DOJ's Office of Legal Education covers the costs of travel and lodging for tribal attendees at classes sponsored by the NICTI. This allows many tribal criminal justice officials to receive cutting-edge training from national experts at no cost to the student or tribe. A significant portion of the training offered by the NICTI is focused on the investigation and prosecution of sexual assault and domestic violence crimes committed in Indian country.

NICTI programming is developed and delivered in collaboration with Indian tribes and BIA and is designed to be responsive to tribal consultation recommendations. For example, tribes have repeatedly raised the issue of the lack of trained and experienced sexual assault nurse examiners able to provide testimony about the forensic medical examination at trial. Consequently, the NICTI, in partnership with the International Association of Forensic Nurses, has designed and twice offered a course titled "Sexual Assault Nurse Examiners' Expert Witness Training." This training provided instruction on the following topics: testimony fundamentals; legal issues; advanced concepts in expert testimony; and expert report writing. The course includes a day and a half of courtroom exercises where nurses provide expert testimony on direct examination and are also subject to cross examination by experienced prosecutors playing the role of defense attorneys. Because there is a long waiting list each time this course is offered, NICTI is continuing to offer this course in its training schedule.

The NICTI has also developed video training products in direct response to the issues and needs raised by tribal leaders at the annual consultation. In 2012, the NICTI released a training DVD and resource manual titled "Using Federal law to Prosecute Domestic Violence Crimes in Indian Country." The NICTI is currently working to finish two additional video projects funded by OVW and OVC. The first training DVD is on alcohol facilitated sexual assault of American Indians and Alaska Natives. The second DVD addresses the problems of domestic violence, sexual assault and human trafficking committed against Alaska Natives.

Finally, the National Indian Country Training Coordinator does many presentations every year in tribal communities at the request of tribes, tribal coalitions or tribal technical assistance providers. For example, the National Indian Country Training Coordinator has spoken at numerous conferences and webinars sponsored by the National Indigenous Women's Resource Center, an OVW-funded technical assistance provider.

**American Indian/Alaska Native Sexual Assault Nurse Examiner-Sexual Assault Response Team Initiative.** The American Indian/Alaska Native Sexual Assault Nurse Examiner-Sexual Assault Response Team (SANE-SART) Initiative is a partnership between DOJ's Office for

Victims of Crime (OVC), the FBI's Office of Victim Assistance, and the Indian Health Service of the Department of Health and Human Services. OVC established the initiative in 2010 to address the comprehensive needs of tribal victims of sexual violence, with the ultimate goal of institutionalizing sustainable and evidence-based practices that meet the needs of tribal communities and build their capacity to provide coordinated, community-based, victim-centered responses to sexual violence. As part of the Initiative, OVC established a National Coordination Committee that includes representatives from several tribes and tribal organizations, BIA, the Indian Health Service of the Department of Health and Human Services, and a number of DOJ components, including OVW. In 2014, the committee submitted a report and recommendations to the Attorney General on improving federal agency response to sexual violence in tribal nations, including recommendations on federal agency collaboration. The Initiative also includes the creation and dissemination of a national strategy to enhance the ability of tribal governments and their partners to respond to sexual violence, with support from OVC, the Indian Health Service, and OVW.