

NCAI UPDATE ON VAWA 2012  
REAUTHORIZATION

SPEAKING OUT FOR SAFETY

NATIVE AMERICAN CAUCUS  
HOUSE BRIEFING ON VAWA  
TRIBAL AMENDMENTS



*Restoration*  
OF NATIVE SOVEREIGNTY AND SAFETY FOR NATIVE WOMEN





**Cover:** On May 23, 2012 Deborah Parker, Vice Chairwoman of the Tulalip Tribes (speaking) and Senator Barbara Boxer, D-CA, (right) at a press conference arranged by Senator Patty Murray, D-WA in support of S. 1925, a bill to reauthorize the Violence Against Women Act. Vice Chairwoman Parker joined women senators to support tribal provisions contained in S. 1925 that will provide the ability for local justice officials in tribal communities to bring non-Indians who live and commit crimes against women on tribal lands to justice. S. 1925 passed on a vote of 68 – 31.

Volume XX, June 2012

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*Restoration*  
OF NATIVE SOVEREIGNTY AND SAFETY FOR NATIVE WOMEN

RESTORATION OF SOVEREIGNTY & SAFETY MAGAZINE, 2003-2012

Nine years ago during the reauthorization process of the Violence Against Women Act, three national organizations came together to take a stand for the safety of Native women. Sacred Circle National Resource Center to End Violence Against Native Women, the National Congress of American Indians, and the National Task Force to End Sexual and Domestic Violence. It was recognized that to fully participate in the national movement to create the changes needed to increase safety for Native women broad communication was essential. The Restoration of Sovereignty & Safety magazine emerged to fulfill this task.

The Restoration of Sovereignty & Safety magazine is a publication dedicated to informing tribal leadership and communities of emerging issues impacting the safety of American Indian and Alaska Native women. The name of the magazine, Restoration of Sovereignty & Safety, reflects the grassroots strategy of the Task Force that by strengthening the sovereignty of Indian Nations to hold perpetrators accountable the safety of Native women will be restored. The magazine is a joint project of the NCAI Task Force, the National Indigenous Women's Resource Center, and Clan Star, Inc. It is produced and made available during national NCAI conventions and the annual USDOJ - Tribal VAWA Consultation.

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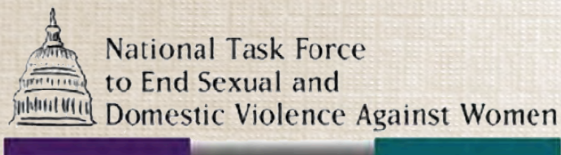
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Dear Friends,

Over the last several months, the life threatening danger confronting Native women has unveiled itself on the national platform of the VAWA reauthorization. Under the spotlight, Congress has engaged in a heated debate over how to increase the safety of Native women. This debate has played itself out in the media, in the halls of Congress, and on the floor of the Senate and the House of Representatives—before the people of the United States and the world.

On the pages that follow are snippets of the debate, insights into the personal stories of the participants, and positions of organizations that are involved and exist to eradicate domestic and sexual violence. Among these courageous leaders are Native sisters that stepped forward in defense of all tribal women and their nations to whom we want to extend our deep appreciation. We watched with great pride Deborah Parker of the Tulalip Indian tribes, Cherrah Ridge of the Muscogee (Creek) Nation, and Diane Millich of the Southern Ute Indian Tribe share their life stories to inform Members of Congress of the importance of supporting the tribal amendments in VAWA.

Just as the debate has polarized members of Congress in deciding the path forward, it has also raised this injustice against Native women as a moral challenge to this nation. As Indian tribes and Native peoples, we must ask Congress how it can allow this epidemic of violence to continue when the very foundation of the United States government is the consent of the governed. Tribal women never consented to the ongoing brutality cast upon our lives. We call upon Congress to end this violence by giving tribes the local control necessary to protect their own citizens from harm.

Native women have endured and experienced the violence of colonization and its aftermath. Today, the vestige of this past is alive in the laws and policies that deny Indian tribes the fundamental authority to protect the women of their nations. In the year 2012, the United States as a nation must act to stop this injustice and provide safety to all Americans. It is time to hold all criminals – including rapists and abusers on tribal lands – accountable for acts that no just society would permit.

The time is upon us to end race-based jurisdictional loopholes for non-Indians who abuse with impunity simply because they can!



Juana Majel  
1st Vice President  
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American Indians



Terri Henry  
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# Native Americans Struggle With High Rate of Rape

By TIMOTHY WILLIAMS, THE NEW YORK TIMES

EMMONAK, Alaska — She was 19, a young Alaska Native woman in this icebound fishing village of 800 in the Yukon River delta, when an intruder broke into her home and raped her. The man left. Shaking, the woman called the tribal police, a force of three. It was late at night. No one answered. She left a message on the department's voice mail system. Her call was never returned. She was left to recover on her own.

"I drank a lot," she said this spring, three years later. "You get to a certain point, it hits a wall."

One in three American Indian women have been raped or have experienced an attempted rape, according to the Justice Department. Their rate of sexual assault is more than twice the national average. And no place, women's advocates say,

is more dangerous than Alaska's isolated villages, where there are no roads in or out, and where people are further cut off by undependable telephone, electrical and Internet service.

The issue of sexual assaults on American Indian women has become one of the major sources of discord in the current debate between the White House and the House of Representatives over the latest reauthorization of the landmark Violence Against Women Act of 1994.

A Senate version, passed with broad bipartisan support, would grant new powers to tribal courts to prosecute non-Indians suspected of sexually assaulting their Indian spouses or domestic partners. But House Republicans, and some Senate Republicans, oppose the provision as

a dangerous expansion of the tribal courts' authority, and it was excluded from the version that the House passed last Wednesday. The House and Senate are seeking to negotiate a compromise.

Here in Emmonak, the overmatched police have failed to keep statistics related to rape. A national study mandated by Congress in 2004 to examine the extent of sexual violence on tribal lands remains unfinished because, the Justice Department says, the \$2 million allocation is insufficient.

But according to a survey by the Alaska Federation of Natives, the rate of sexual violence in rural villages like Emmonak is as much as 12 times the national rate. And interviews with Native American women here and across the nation's tribal reservations





suggest an even grimmer reality: They say few, if any, female relatives or close friends have escaped sexual violence.

“We should never have a woman come into the office saying, ‘I need to learn more about Plan B for when my daughter gets raped,’” said Charon Asetoyer, a women’s health advocate on the Yankton Sioux Reservation in South Dakota, referring to the morning-after pill. “That’s what’s so frightening — that it’s more expected than unexpected. It has become a norm for young women.”

The difficulties facing American Indian women who have been raped are myriad, and include a shortage of sexual assault kits at Indian Health Service hospitals, where there is also a lack of access to birth control and sexually transmitted disease testing.

There are also too few nurses trained to perform rape examinations, which are generally necessary to bring cases to trial.

Women say the tribal police often discourage them from reporting sexual assaults, and Indian Health Service hospitals complain they lack cameras to document injuries.

Police and prosecutors, overwhelmed by the crime that buffets most reservations, acknowledge that they are often able to offer only tepid responses to what tribal leaders say has become a crisis.

Reasons for the high rate of sexual assaults among American Indians are poorly understood, but explanations include a breakdown in the family structure, a lack of discussion about sexual violence and alcohol abuse.

Rape, according to Indian women, has been distressingly common for generations, and they say tribal officials and the federal and state authorities have done little to help halt it, leading to its being significantly underreported.

In the Navajo Nation, which encompasses parts of Arizona, New Mexico and Utah, 329 rape cases were reported in 2007 among a population of about 180,000. Five years later, there have been only 17 arrests. Women’s advocates on the reservation say only about 10 percent of sexual assaults are reported.

The young woman who was raped in Emmonak, now 22, asked that her name not be used because she fears retaliation from her attacker, whom she still sees in the village. She said she knew of five other women he had







Photos: Jim Wilson/The New York Times

raped, though she is the only one who reported the crime.

Nationwide, an arrest is made in just 13 percent of the sexual assaults reported by American Indian women, according to the Justice Department, compared with 35 percent for black women and 32 percent for whites.

In South Dakota, Indians make up 10 percent of the population, but account for 40 percent of the victims of sexual assault. Alaska Natives are 15 percent of that state's population, but constitute 61 percent of its victims of sexual assault.

The Justice Department did not prosecute 65 percent of the rape cases on Indian reservations in 2011. And though the department said it had mandated extra training for prosecutors and directed each field office to develop its own plan to help reduce violence against women, some advocates for Native American women said they no longer pressed victims to report rapes.

"I feel bad saying that," said Sarah Deer, a law professor at William Mitchell College of Law in Minnesota and an authority on violent crime on reservations. "But it compounds the trauma if you are willing to stand up and testify and they can't help you."

Despite the low rates of arrests and prosecutions, convicted sexual offenders are abundant on tribal lands. The Rosebud Sioux Reservation in South Dakota, with about 25,000 people, is home to 99 Class 3 sex offenders, those deemed most likely to commit sex crimes after their release from prison. The Tohono O'odham tribe's reservation in Arizona, where about 15,000 people live, has 184, according to the Justice Department.

By comparison, Boston, with a population of 618,000, has 252 Class 3 offenders. Minneapolis, with a population of 383,000, has 101, according to the local police.

The agencies responsible for aiding

the victims of sexual assault among American Indians are often ill prepared.

The Indian Health Service, for instance, provides exams for rape victims at only 27 of the 45 hospitals it finances and, according to a federal report in 2011, did not keep adequate track of the number of sexual assault victims its facilities treat and lacked an overall policy for treating rape victims. Additionally, the health service has just 73 trained sexual assault examiners.

The Justice Department, which has increased the number of F.B.I. agents and United States attorneys on Indian reservations and is seeking to help the Indian Health Service train more nurses, said combating sexual violence was a priority.

"There's no quick fix. There's no one thing that will fix the system," said Virginia Davis, deputy director for policy development in the



department's Office on Violence Against Women. "We're taking a systematic approach to this — thinking about different ways to solve the problem."

In the meantime, the problem persists. Lisa Marie Iyotte, 43, who was raped on the Rosebud Sioux Reservation, said prosecutors had never told her why they did not charge the man arrested in that crime. He was later convicted of another rape, and when he was

released from prison in 2008 and moved back to the reservation, no one told her, she said. She has not seen him yet.

"When I think about it, I say, 'What am I going to do?'" she said. "I don't know."

Nine hundred miles away, in the Navajo Nation, Caroline Antone, 50, an advocate for the reservation's victims of sexual violence who has herself been raped, said sexual

assault was virtually routine in her community.

"I know only a couple of people who have not been raped," she said. "Out of hundreds."

*Jonathan Weisman contributed reporting from Washington.*

## Battered Indian Tribal Women Caught in Legal Limbo

By SERENA MARSHALL, ABC NEWS

Legislation to close tribal loophole in domestic abuse stalls in Washington

Spousal abuse would land the perpetrator in jail anywhere in the country. But on some Indian reservations U.S. laws give tribal police no jurisdiction over non-tribal abusers. States have no jurisdiction on tribal lands.

As a result, abused women go unprotected. Legislation to fix the problem has passed both houses of Congress, but in differing forms. Until the two sides in Washington can find agreement, battered women on tribal lands will remain in a legal limbo and their abusers know it.

"He started flaunting it; what are you going to do? Who's going to arrest me? I dare you to call the police. I'll call the police for you. And he did," said a 45-year-old woman who asked to remain anonymous out of concerns for her safety.

Two days after her wedding the southern-Indian tribal member was punched in the face by her new husband. She was on her way to her mother's house and he didn't want her to go.

"I tried to push him away and in that very minute he snapped... he punched me. And I can remember his hands in my hair, and in the

gravel, and a lot of blood that came from my nose or my lip," she said.

She was a six-generation tribal member; her husband, an Anglo from a city nearby. More than 50 percent of native women have non-Indian husbands.

Like so many battered woman it took her two months to accept that something was wrong and go for help. But when she did, her pleas for protection and safety were met with silence from the authorities.

What was hardest for the mother of two—who sent her kids to live with their father from a previous marriage due to the constant abuse—was how her husband's thinking "became grandiose" because no one could arrest him, convict him, or protect her from his ever-increasing bouts of violence.

"When we were dating he was perfect," she said looking back on their six-week romance.

She and her husband were living on a tribal reservation in Southwest Colorado, and because her husband was not a tribal member she was told there "wasn't much that the tribal police could do to a non-tribal member." She was given the same response from local and state officials in Colorado -- that because

they were on tribal lands, they could not respond and have no jurisdiction.

What was most astonishing for the victim was that her house was just 50 yards from non-tribal property, where Colorado and United States laws apply.

"If we drove back to my house, even if the abuse was conducted on state grounds, it was tribal property again, so they [police] would come and ask questions but would say because we are now on the reservation they can't do anything," the victim explained.

"The message I was getting that was very clear is the tribe couldn't charge him or arrest him because he was non-native. The non-native police couldn't arrest him because he was white, married to a native woman living on the reservation."

Native women in the US face epidemic abuse rates. According to the National Task Force to End Sexual and Domestic Violence Against Women, 34 percent of native women will be raped in their lifetime and 39 percent will be the victim of domestic violence. According to a 2010 GAO study, the feds decline to prosecute 67 percent of sexual abuse and related matters that occur in Indian country.

"Right now you are untouchable if



you commit a violent crime on tribal lands,” Devon Boyer, sergeant at arms for the Shoshone-Bannock tribes and a former tribal law enforcement officer, told ABC News.

Under the Violence Against Women Act (VAWA) the problem could be solved, unless legislators in the House remove the provisions that would protect Native woman and give control to native police. Under the Senate bill, tribal police would gain control over all persons committing domestic violence and dating violence on tribal lands, while clarifying tribal civil jurisdiction over non-Indians. “It would solve a lot of the problems to have local control as the outside does, it will send the same message that you can’t get away with it,” Boyer said. The House bill, which passed Wednesday, and was put forth by House Republicans, removes local, tribal enforcements against domestic violence but allows battered Native woman to file a suit in U.S. district court for protection against their abusers, providing them with legal recourse. Gays and lesbians would not be explicitly protected under the House bill either.

The House Republican alternative to the Senate-passed VAWA even removes a provision that sets new reporting standards for domestic violence on college and university campuses. That measure was so non-controversial on the Senate side that it wasn’t even discussed there. Democrats spoke on the House floor Wednesday against the Republican VAWA bill and in support of the bipartisan Senate bill. “Isn’t that our value, to protect every individual?” asked House Democratic Whip Steny Hoyer.

“We hold these truths to be self-evident, that all individuals are endowed by their creator. Shouldn’t we protect all individuals? Not exclude some?”

When asked about the House bill, Boyer said, “it puts native people

on reservations on a second priority; that they are not people and therefore they would rather protect the nontribal members committing those crimes than punish them to the same extent than if the crimes were done in their home, to their people.” “This is an extremely dangerous bill” that victims’ rights advocates “shouldn’t go anywhere near,” Lisalyn Jacobs of the National Task Force to End Sexual and Domestic Violence Against Women told Roll Call.

As for the 45-year-old southern-Indian tribal member, her abuse only stopped after her husband came to her work with 9mm gun.

“His intentions I know to this day were to shoot and kill me,” she said.

Luckily, her coworker pushed her out of the way of the shots. After the shooting her husband fled and was not captured for two weeks.

The DA offered him a plea deal for driving without a license—a felony, whereas domestic violence is a misdemeanor for a first-time offender.

“When I asked (the DA) ‘why aren’t you bringing up the past assaults’ I was told it’s because he was never prosecuted. The tribe never did and county never did. So this (the shooting) was his first offense.”

Her now ex-husband is serving his sentence for driving with a revoked license.

Today, she begs for legislators to “be our voice so we’re not silenced out because we are silenced say when the system doesn’t work for us.”

*ABCs’ Tom Shine contributed to this report.*

## “Walk a Mile in Her Shoes”

By SCOTT MCKIE B.P.

Men wearing high heel shoes paraded through downtown Cherokee on Thursday, April 5.

No, it wasn’t a drag show, and none of them lost a bet. The brave men donned the shoes, as part of a “Walk a Mile in Her Shoes” event which drew over 100 people, to help bring awareness to the problem of violence against women.

“Thank you for manning up and walking with us,” said Painttown Rep. Terri Henry, a long-time advocate against domestic violence. She spoke to the crowd about the importance of awareness and education on the problem as well as the need to reauthorize the Violence Against Women Act (VAWA).

“From its initial passed in 1994 to now, the VAWA has been the vehicle to bring awareness of the epidemic





rates of violence committed against Native women to the U.S. Congress and it has been the vehicle for tribes getting the federal legal reforms and resources needed to address domestic and sexual violence,” said Rep. Henry.

“Native Women face more than twice the rates of violence than women of other races in the United States. 34 percent of Native women will be raped in their lifetime and 39 percent will suffer domestic or intimate partner violence.”

“These are the shoes we will walk in today. The 2012 Reauthorization of the Violence Against Women Act contains amendments to federal law that would restore limited jurisdiction to Tribes over all persons committing domestic and sexual violence. It is time for tribes to have local control over criminal activity in our tribal areas.

The Eastern Band stands ready for this jurisdictional restoration.”

Tom Hill, of Analenisgi, said it is important for men to take responsibility for the problem. “We are responsible for this problem and we are the ones that have to take care of it.”

He said many ask the question of why does an abused woman not leave or why do some women continue to return to their abusers. “How come we don’t ask, ‘why does he keep hitting her?’”

Principal Chief Michell Hicks donned high heels and led the walk. “I do applaud the staff (EBCI Domestic Violence) for putting this event together.

We have got to be more supportive and more understanding on this issue.”



Gil Jackson (right) was one the brave men at the walk.  
Photos: Cherokee One Feather





# Overview of Tribal Amendments

## The Violence Against Women Reauthorization Act, Title IX: Safety for Indian Women

The U.S. Constitution and hundreds of treaties, federal laws, and court cases acknowledge that Indian tribes are sovereign governments. Despite this fact, Indian tribes are the only governments in America without jurisdiction to protect women from domestic and sexual violence in their communities. S.1925, the bipartisan Senate version of the Violence Against Women Reauthorization Act (VAWA), addresses this jurisdictional gap with local solutions that will deliver long-overdue justice to Native women and safety to tribal communities. **These tribal provisions are essential to the safety of Native women and must be included in any final VAWA Reauthorization bill.**

### Existing law denies Indian women equal access to justice.

Violence against Native women has reached epidemic proportions, and federal laws force tribes to rely exclusively on far away federal—and in some cases, state—government officials to investigate and prosecute crimes of domestic violence committed by non-Indians against Native women. As a result, many cases go uninvestigated and criminals walk free to continue their violence with no repercussions. The prime example of this is the Indian woman who is raped or beaten by her non-Indian husband on tribal land and has nowhere to turn for protection under existing law: tribal law enforcement has no authority to intervene because the perpetrator is a non-Indian; the State has no authority to intervene because the victim is an Indian; and the Federal Government—the body with exclusive jurisdiction—has neither the will nor the resources to intervene in misdemeanor level domestic violence cases.

### In every VAWA since 1994, Congress has recognized the urgent need to enhance the safety of Native women.

VAWA 2005 recognizes that the U.S. has a federal trust responsibility to assist tribes in safeguarding the lives of Indian women. Yet, despite the federal government's primary enforcement responsibility on Indian reservations, between 2005 and 2007:

- U.S. Attorneys declined to prosecute nearly 52% of violent crimes that occur in Indian country; and
- 67% of cases declined were sexual abuse related cases.

Domestic violence crimes must be responded to immediately—and sometimes daily—to stop recurring violence and prevent future harm. Federal and state authorities will never have the resources, time, or will to address this pattern of violent crimes on Indian lands. For example, in 2006 and 2007, U.S. attorneys prosecuted less than 23 misdemeanor crimes annually on Indian lands. Compare that number to the problem: one small reservation in Arizona faced more than 450 domestic violence cases in 2006 alone.

### Local Problem, Local Solution

Title IX of S.1925 delivers a local solution for local problems. Local governments have had significant successes in combating crimes of domestic violence, but without an act of Congress, Indian tribes cannot prosecute a non-Indian for domestic violence — **even if that person lives on the reservation and is married to a tribal member!** This jurisdictional gap means that non-Indian men who batter their Indian wives or girlfriends often go unpunished and the violence escalates. Local justice officials in tribal communities are the most appropriate entities to respond to this violence and deal with criminals who choose to live and commit crimes on tribal lands. **Any final VAWA bill should restore limited tribal criminal jurisdiction over non-Indians to respond to and prevent this pattern of domestic violence crimes that threatens the lives of Native women on a daily basis.**

tribal criminal jurisdiction over non-Indians to that threatens the lives of Native women on a daily basis.  
S.1925'S AMENDMENT TO VAWA TITLE IX  
Does not take any jurisdiction away from federal or state law enforcement. Rather, S.1925 restores concurrent tribal jurisdiction over domestic violence crimes that demonstrate an egregious problem on Indian reservations.  
Does not violate Double Jeopardy. Section 904 jurisdiction is not a violation of the Double Jeopardy Clause of the U.S. Constitution.



### THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT, TITLE IX: SAFETY FOR INDIAN WOMEN

The U.S. Constitution and hundreds of treaties, federal laws, and court cases acknowledge that Indian tribes are sovereign governments. Despite this fact, Indian tribes are the only governments in America without jurisdiction to protect women from domestic and sexual violence in their communities. S.1925, the bipartisan Senate version of the Violence Against Women Reauthorization Act (VAWA), addresses this jurisdictional gap with local solutions that will deliver long-overdue justice to Native women and safety to tribal communities. **These tribal provisions are essential to the safety of Native women and must be included in any final VAWA Reauthorization bill.**

## Violence Against Native Women

- 34% of American Indian and Alaska Native women will be raped in their lifetimes\*
- 39% of American Indian and Alaska Native women will be subjected to domestic violence in their lifetimes\*
- 56% of American Indian women have non-Indian husbands\*\*
- Non-Indians commit 88% of all violent crimes against Native women\*\*\*
- On some reservations, Native women are murdered at more than ten times the national average\*\*\*\*

\*Congressional findings in the Tribal Law & Order Act of 2010, 25 USC 2801 et seq. (2010).  
\*\*U.S. Census Bureau, Census 2000.  
\*\*\*Patricia Tjaden & Nancy Thoennes, U.S. Dept't of Justice, Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey 22 (2000).  
\*\*\*\*NIJ Funded Analysis of Death Certificates.



## S.1925's amendment to VAWA Title IX that would restore tribal jurisdiction:

**Does not take any jurisdiction away from federal or state authorities.** The provisions in S.1925 that passed the Senate with broad bipartisan support do not in any way alter or remove the current criminal jurisdiction of the United States or of any state. Rather, S.1925 restores concurrent tribal criminal jurisdiction over a very narrow set of crimes that statistics demonstrate are an egregious problem on Indian reservations.

**Does not violate Double Jeopardy.** Section 904 jurisdiction would be an exercise of inherent tribal authority, not a delegated Federal power, and would thus render the Double Jeopardy Clause inapplicable to sequential prosecutions of the same crime by the tribe and the Federal Government.

**Covers a narrow set of crimes.** Section 904 provides a limited jurisdictional fix to address a narrow set of egregious crimes committed in Indian country: domestic violence, dating violence, and violations of protection orders. It does not extend to other crimes or to crimes committed beyond reservation boundaries.

**Does not allow tribes to prosecute crimes between two non Indians with no ties to the reservation.** Non-Indian on non-Indian crime that occurs on the reservation is within the exclusive jurisdiction of the State. See *U.S. v. McBratney*, 104 U.S. 621 (1881).

**Is well within Congressional authority.** Congress' power to define the contours of tribal jurisdiction is a well-settled matter of U.S. Supreme Court law. The Court in *U.S. v. Lara*, 541 U.S. 193 (2004), held that the Constitution confers on Congress the power to enact legislation to limit restrictions on the scope of inherent tribal sovereign authority.

**Does not permit tribal prosecutions of all non-Indians.** Section 904 is limited to only crimes of domestic violence or dating violence committed in Indian country where the defendant is a spouse or established intimate partner of a tribal member. It does not permit tribal prosecutions unless the defendant has "sufficient ties to the Indian tribe," meaning he/she must either reside in the Indian country of the prosecuting tribe, be employed in the Indian country of the prosecuting tribe, or be the spouse or intimate partner of a member of the prosecuting tribe.

**Is constitutional.** Under Section 904, tribal courts must provide defendants with the same constitutional rights in tribal court as they would have in state court. Defendants would be entitled to the full panoply of constitutional protections, including due-process rights and an indigent defendant's right to appointed counsel (at the expense of the tribe) that meets federal constitutional standards.

**Requires impartial jury pools.** Section 904 contains explicit language that tribes exercising authority under these new provisions must draw from jury pools that reflect a fair cross-section of the community and do not systematically exclude any distinct group of people, including non-Indians.

**Clarifies the intent of the original VAWA.** The tribal civil jurisdiction that is the subject of Section 905 of S.1925 already exists under the full faith & credit clauses of VAWA 2000. This new provision would simply clarify current law, making clear that tribes have full civil authority to issue and enforce protection orders against Indians and non-Indians alike regarding matters arising in Indian country.

**Is the only solution.** The crux of the issue at hand is a lack of local authority to handle misdemeanor level domestic and dating violence when the perpetrator is non-Indian. This problem cannot be solved by expansion of federal or state jurisdiction over tribal lands. These types of alternatives have been failing Native women for decades. The only solution—and the only hope for Native women fleeing violence—is to give tribes local control to address these heinous crimes, so that tribal citizens can feel safe in their own communities and believe in the justice system once again.

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Indian Country Criminal Matters, REPORT NO.



# Why Section 1006 of H.R. 4970 Does Not Solve the Problem

Women living within tribal jurisdiction rely on tribal courts everyday. Tribal women turn to their tribal court to obtain civil orders of protection to prevent future abuse in crimes of domestic violence, sexual assault, dating, and stalking. Given that these crimes are extremely complicated and have a far-reaching impact on entire communities, a tribal court typically handles related matters including divorce, custody, and other tort claims arising out of the pattern of domestic violence or other VAWA crimes. In addition, tribal courts also have the authority to handle enforcement of civil protection orders, contempt penalties for violating those orders, and civil recoveries for injuries to both the person and property of victims of these civil wrongs. **It is not a practical response to epidemic levels of violence against Indian women to direct them to a federal district court away from their homes and communities to obtain protection.**

Congress has recognized Indian tribes' civil jurisdiction to issue protection orders since 1994. Congress has unequivocally supported tribal authority to issue civil protection orders in domestic violence, dating violence, sexual assault, and stalking cases, and that tribal court authority in such cases is equivalent to the jurisdictional authority of the States. Congress has also recognized, through the enhancement of tribal court civil authority to enforce domestic violence protection orders in 18 USC §2265, that tribal courts have broad civil authority over persons who commit domestic violence against Indian women in Indian communities by recognizing that tribal courts can impose civil contempt penalties and exclusionary orders against Indians and non-Indians who violate civil domestic violence protection orders on tribal lands.

Section 1006 of H.R. 4970, the House version of the VAWA reauthorization, proposes to change the

availability of such orders to tribal victims by creating a federal domestic violence order of protection. On the surface, such a change may not appear significant, but a deeper look at the proposed amendment has generated much concern. If this language is included in the final VAWA reauthorization bill, it will confuse the validity of tribal orders. Creation of a federal order of protection for victims of domestic violence on tribal lands implies that a tribe does not have the power to issue its own protection order in cases of domestic violence. This unintended confusion over the status of tribal protection orders erodes 17 years of federal law and causes untold harm to Indian victims of domestic violence, dating violence, sexual assault, and stalking.

It would seem logical that the governmental authorities closest to the alleged criminal activity—tribal police and courts—would address incidences of domestic violence within the tribe's territory, as is the case in other jurisdictions. Instead, under Section 1006 of H.R. 4970, tribal residents would be forced to rely on federal courts—often located hundreds of miles from the reservation and scene of the crime—to protect victims. This language would place the primary burden on federal law enforcement to protect Native women, even though these authorities often have no stake in or ties to the relevant tribal communities.

## Four Reasons Why Section 1006 is Opposed by National Experts

**It Fails to Address the Problem.** Indian victims already can, and do, seek civil protection orders in tribal courts regardless of the race of the perpetrator. Current federal law acknowledges that all courts must provide full faith and credit to tribal court orders of protection. The real

S.1925 fulfills the congressional intent of VAWA 2005 by clarifying that every tribe has full civil jurisdiction to issue and enforce protection orders against all persons regarding matters arising on tribal lands. Section 2265 of title 18, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any persons, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151 of title 18) or otherwise within the authority of the Indian tribe."



problem tribal victims face is that some jurisdictions fail to recognize and enforce tribal orders of protection. This problem is not resolved by creating an alternative to tribal courts in the federal system that is not appropriate to meet the urgent nature of victims of domestic violence. It can be resolved by clarifying the existing authority of tribal courts to issue orders of protection as provided in Section 905 of S. 1925.

**Federal Courts Are Not Equipped to Issue Reservation-based Orders of Protection.** Federal courts have little expertise or experience in the realm of family law—domestic disputes are typically within the purview of tribal and state governments—the governments closest to the community impacted. As such, it is impractical to have federal courts delve into these types of cases when they arise on tribal lands rather than having tribal courts—the best-equipped and most appropriate authorities to issue domestic violence orders of protection on reservation—handle them. The federal court will not have immediate access to the tribal justice system’s records and personnel, such as tribal police records, probation officers, and batterer re-education services. The federal courts have not been consulted on either the creation of this additional docket of cases or the practicality of such a solution on the lives of Native domestic violence victims.

**It Places the Burden on the Victim.** Like other victims, reservation victims of violence request an order of protection because they fear—and want to prevent—future violence. Tribal victims in need of court

## Section 1006 does nothing to provide immediate help to Native women fleeing violence.

intervention should not be confronted with additional barriers, but should instead have immediate access to their local court, like all other victims. Section 1006 will create additional financial burdens upon victims to bear the costs of filing in a federal district court located in cities hundred of miles from their home. This cost will likely include transportation, hotel and meals for themselves, any witnesses, and counsel to represent them during the filing and hearing of the protection order case. In addition, since the district court is far from her home community, a Native victim may need to cover the cost of locating and hiring an attorney admitted to practice in the federal bar to handle a reservation based order of protection case. Even in instances where a victim can afford these additional costs, the attorney most likely will not be familiar with tribal law and how it intersects with often related matters, such as divorce and child custody proceedings.

**It is Not Victim-Centered.** By giving a tribe the authority to petition in federal court for a protection order on behalf of an Indian victim, this bill strays from VAWA’s traditional

victim-centered approach and threatens the autonomy and safety of the victim. If a tribe were to seek such a protection order against the will of the victim, this could cause the abuser to retaliate and it would undoubtedly place the victim in greater danger. Furthermore, if the victim is in hiding or afraid of the respondent, forcing her to disclose her residential address when seeking the protection order, as Section 1006 would do, may put her in further jeopardy. The decision to seek a protection order must remain that of the victim.

# The Violence Against Women Act Reauthorization

## The Truth About Title IX, Safety For Indian Women: Separating the Myth from the Facts

**Myth:** Native women are not in need of extra protections.

**Fact:** Existing law denies Native women equal access to justice, which is borne out by statistic after statistic: 34% of American Indian and Alaska Native women will be raped in their lifetimes; 39% will be subjected to domestic violence in their lifetimes; and on some reservations, Native women are murdered at more than ten times the national average

**Myth:** The amendments to Title IX in the Senate VAWA are not needed because existing law is sufficient to solve the epidemic of violence against Native women.

**Fact:** Current law does nothing to address the jurisdictional gap in Indian Country that leaves Native women without equal access to justice. In short, an Indian woman raped or beaten by her non-Indian husband often has nowhere to turn for protection under existing law. Tribal law enforcement has no authority to intervene because the perpetrator is a non-Indian. The State has no authority to intervene because the victim is an Indian. Lastly, the Federal Government—the body with exclusive jurisdiction—has neither the will nor the resources to intervene in misdemeanor level domestic violence cases.



Myth: The Federal Government has no legal responsibility to protect Native women.

**Fact: VAWA 2005 recognizes that the legal relationship between tribes and the U.S. creates a federal trust responsibility to assist tribes in safeguarding Indian women.**

Myth: The tribal provisions in S.1925 would strip jurisdiction from federal or state authorities.

**Fact: The provisions in S.1925 that passed the Senate with broad bipartisan support do not in any way alter or remove the current criminal jurisdiction of the United States or of any state. Rather, S.1925 restores concurrent tribal criminal jurisdiction over a very narrow set of crimes that statistics demonstrate are an egregious problem on Indian reservations.**

Myth: Tribal jurisdiction exercised under Section 904 would violate Double Jeopardy.

**Fact: Section 904 jurisdiction would be an exercise of inherent tribal authority, not a delegated Federal power, and would thus render the Double Jeopardy Clause inapplicable to sequential prosecutions of the same crime by the tribe and the Federal Government.**

Myth: The Senate version of VAWA gives tribes criminal jurisdiction over all crimes committed by non-Indians on or off the reservation.

**Fact: S.1925 provides a limited jurisdictional fix to address a narrow set of egregious crimes committed in Indian country: domestic violence, dating violence, and violations of protection orders. It does not extend to other crimes or to crimes committed beyond reservation boundaries.**

Myth: The Senate version of VAWA would allow tribes to prosecute crimes between two non-Indians with no ties to the reservation.

**Fact: Non-Indian on non-Indian crime that occurs on the reservation is within the exclusive jurisdiction of the State. The new tribal provisions in no way alter this century-old rule established by the Supreme Court in U.S. v. McBratney, 104 U.S. 621 (1881).**

Myth: Congress does not have the authority to expand tribal jurisdiction.

**Fact: The provisions in the Senate VAWA are well within Congressional authority. Congress' power to define the contours of tribal jurisdiction is a well-settled matter of U.S. Supreme Court law. The Court in U.S. v. Lara, 541 U.S. 193 (2004), held that the Constitution confers on Congress the power to enact legislation to limit restrictions on the scope of inherent tribal sovereign authority.**

Myth: Section 904 would permit tribal prosecutions of all non-Indians.

**Fact: Section 904 of S.1925 is limited to only crimes of domestic violence or dating violence committed in Indian country where the defendant is a spouse or established intimate partner of a tribal member. It does not permit tribal prosecutions unless the defendant has "sufficient ties to the Indian tribe," meaning he/she must either reside in the Indian country of the prosecuting tribe, be employed in the Indian country of the prosecuting tribe, or be the spouse or intimate partner of a member of the prosecuting tribe.**

Myth: S.1925 is unconstitutional because tribal courts are not bound by the U.S. Constitution.

**Fact: Under Section 904, tribal courts must provide defendants with the same constitutional rights in tribal court as they would have in state court. Defendants would be entitled to the full panoply of constitutional protections, including due-process rights and an indigent defendant's right to appointed counsel (at the expense of the tribe) that meets federal constitutional standards. This includes the right to petition a federal court for habeas corpus to challenge any conviction and to stay detention prior to review, and explicit protection of "all other rights whose protection is necessary under the Constitution of the United States."**

Myth: It is "un-American" to subject non-Indians to prosecution in tribal court because they are not allowed to participate in tribal political processes through the ballot box.

**Fact: Political participation has never been considered a necessary precondition to the exercise of criminal jurisdiction under the concept of due process of law. Everyday thousands of people are held accountable for criminal acts within jurisdictions where they cannot vote. These individuals do not meet the requirements set by the government where the crime was committed. Such requirements may include being a resident of the county, being a US citizen, or not having been convicted of a felony. A resident of Los Angeles charged with rape in Las Vegas does not have right to vote in Nevada, but nonetheless can be prosecuted. Across America the public understands that the local government has the authority to maintain public safety and charge suspects for criminal offenses. Due process certainly does not prevent the federal government or the states from prosecuting either documented or undocumented aliens for crimes committed within the United States,. In addition, American Indians were subjected to federal jurisdiction under the Federal**



**Major Crimes Act of 1885 almost 40 years before most of them were made citizens or given the vote by the Citizenship Act of 1924.**

Myth: Section 904 of S.1925 would subject non-Indians to tribal courts that systematically exclude non-Indians from the jury pool.

**Fact: Section 904 of S.1925 contains explicit language that tribes exercising authority under these new provisions must draw from jury pools that reflect a fair cross-section of the community and do not systematically exclude any distinct group of**

**people, including non-Indians.**

Myth: The tribal civil jurisdiction provisions in Section 905 grant tribes new authority that they did not previously have.

**Fact: The civil jurisdiction found in Section 905 already exists under the full faith & credit clauses of VAWA 2000. S.1925 simply clarifies the intent of this earlier reauthorization by making clear that tribes have full civil authority to issue and enforce protection orders against Indians and non-Indians alike regarding matters arising in Indian country.**

## **10 Things Lost, If Congress Doesn't Pass Real VAWA**

### **Statement by the National Task Force to End Violence Against Women**

**(1) We would lose the provisions in S. 1925 that would protect Native women from repeat abuse.**

There is a gaping jurisdictional hole in Indian country that currently gives non-Indian perpetrators in Indian country a green light to commit domestic and dating violence. It is unacceptable if the final version of VAWA does not restore concurrent tribal criminal jurisdiction over all persons who commit crimes of dating violence, domestic violence, or violations of protection orders in Indian country.

**(2) We would lose helpful expansions from both the Senate and the House bills that would provide crucial new protections for victims of sexual violence.**

We will lose major new provisions to improve the criminal justice response to sexual assault including support for specialized medical care and response teams. We will go back to having no protections for victims of sexual assault in public housing.

**(3) We would lose the language from S. 1925 that explicitly authorizes States to protect LGBTQ victims by providing appropriate services.** S.1925 explicitly protects victims from discrimination on the basis of sexual orientation or sexual identity and authorizes the states to provide appropriate services to LGBTQ victims. H.R.4970, and its manager's

amendment, excludes LGBTQ survivors entirely despite the great need for support and services as determined by a coalition of more than 1,000 organizations, agencies and groups.

**(4) We would lose protections for immigrant victims of domestic violence, dating violence, sexual assault, and stalking.**

S.1925 acknowledges the needs of immigrant victims by recapturing previously authorized but never-issued U visas if the victims work with law enforcement, as well as strengthening other protections for immigrant victims. H.R.4970 erodes existing laws that protect immigrant victims by giving abusers additional tools with which to harm victims. It limits the U visa program, barring the use of unused visas, and will endanger victims who work with law enforcement to bring perpetrators to justice.

**(5) We would lose protections for communities of color.** S. 1925 provides a new definition of "culturally specific" programming to clarify Congress' original intent in 2005 to use specific grant funds to support services developed by and targeted to communities of color.

**(6) We would lose protections for victims of dating and sexual violence at colleges and universities, who often lack**

**access to the justice system simply because these crimes occur on campus.** If there is no final VAWA, we will lose the provisions in S.1925 that would require institutions of higher learning to report annual statistics on domestic violence, dating violence and stalking reported on campus, to develop and publicize clear procedures for handling cases of domestic violence, dating violence, sexual assault and stalking, and to provide support for campus prevention programs teaching all students, male and female, how to help prevent sexual violence and dating violence, including bystander education.

**(7) We would lose housing protections for victims of domestic violence, dating violence, sexual assault, and stalking.** Victims of these crimes frequently need emergency transfers to new housing, in order to remain safe from the actions of an abuser; S.1925 provides such protection. In order to enjoy these rights and avoid unlawful eviction, notice of VAWA rights should be distributed at key times, specifically at eviction. Without adequate notice, victims will never know they have the right not to be evicted based on the actions of their perpetrators or as a result of violence/assault.

**(8) We would lose valuable new prevention programs that can**



**reduce the likelihood of domestic violence, dating violence, sexual assault, or stalking from occurring in the future.** The best way to reduce the prevalence of these crimes is to prevent them from happening in the first place. The new prevention programs proposed in both the House and Senate bills represent a forward-thinking, cost-effective approach to working with children and youth to give them alternatives to violence.

**(9) We would lose provisions that would require the Office**

**on Violence Against Women to provide adequate training and notice to grantees to ensure they do not inadvertently use common accounting techniques not approved by federal grantors.** Grantees receive funding from many different sources—state grants, private donations, federal funding—and every program has different accounting requirements. Many grantees are confused by the wide range of requirements, and may use the wrong system unintentionally. It is better to proactively educate grantees about financial

requirements, in order to help them to keep the best possible records about grant expenditures.

**(10) We would lose the grant program consolidations and repeals that will guarantee that more funding goes directly to services, rather than bureaucracy.** Both the House and Senate bills contain thoughtful consolidations and repeals of existing law that would make it easier for grantees to apply for funding to do comprehensive work, as well as cut down on program administration costs.

## VAWA Tribal Provisions are Constitutionally Sound

By JEFFERSON KEEL, PRESIDENT, NCAI

There is a group of criminals, on Native American lands, who assault, rape, and abuse Native women and they can't be arrested. These criminals are non-Native men. They don't have to face a judge, spend any time behind bars, or be hounded by a criminal record. Instead they remain free to go after the next victim or the same one, time after time. Congress, the one legal body able to fix this problem, could let these injustices continue if they don't act.

The epidemic of violence against women on tribal lands is staggering; 34% of American Indian and Alaska Native women will be raped in their lifetimes, 39% will experience domestic violence, and as a Department of Justice study found, non-Indians commit 88% of these heinous crimes. Tribal justice systems are the most appropriate entities to root out these criminals, yet they are the ones with tied hands—restricted by antiquated jurisdictional laws established the U.S. government limiting tribes from prosecuting non-Native criminals.

Over the last few weeks, we have seen members of Congress from both sides of the aisle work to pass a law that would give tribes



the authority over these criminals; the Violence Against Women Act (VAWA). The proposed tribal provisions of the law, passed with bipartisan support in the Senate, are now being left out of the main House of Representatives version of VAWA. Some members of the House fear they don't have the power to fix the problem or are afraid non-Natives will be subject to tribal law and not guaranteed their constitutional rights.

The reality is the tribal provisions of VAWA are fully constitutional and offer every safeguard provided by U.S. courts – more importantly they are vital to curtailing a very real problem.

In a recent letter to Congress, fifty leading U.S. law professors outlined their confidence in the constitutionality of the legislation. At the core of the letter, the lawyers highlighted the Supreme Court



case law supporting Congressional authority and the requisite safe guards of the provisions offered to every defendant.

The Supreme Court in *U.S. v. Lara*, 541 U.S. 193 (2004), held that “Congress does possess the constitutional power to lift the restrictions on the tribes’ criminal jurisdiction.” Moreover, the VAWA provisions at issue are designed to catch a very narrow set of criminals, not just anyone. They are limited to only crimes of domestic violence or dating violence committed in Indian country, where the defendant is a spouse or established intimate partner of a tribal member.

Defendants prosecuted under these provisions would be entitled to the full array of constitutional protections; due-process rights, an indigent defendant’s right to appointed counsel (at the expense

of the tribe) that meets federal constitutional standards, and as the proposed law states, “all other rights whose protection is necessary under the Constitution of the United States.” This includes the right to petition a federal court for habeas corpus to challenge any conviction and to stay detention prior to review, a right of which the prosecuting tribe must timely notify the defendant.

Finally, any non-Indian defendant prosecuted under these new provisions has the right to a trial by jury drawn from sources that do not systematically exclude any distinctive group in the community, including non-Indians.

These provisions offer tribal governments and the United States an opportunity to advance our cause together and root out this epidemic of violence. If Congress removes the restrictions placed on tribal

governments, tribal law enforcement, and tribal courts, Native and non-Native communities alike will have the means to protect our women and remove criminals from our lands.

Tribal governments are members of the American family of governments, rooted in the constitution itself – we are America’s first nations. We are ready to work together to end this violence. Yet, it is Congress that must take the first step to remove the restrictions placed on tribal governments.

When Congress does act, it is my hope that it will be to allow our governments and justice systems to stand together to keep every American, and Native American, safe, and demonstrate our commitment to our greatest shared value: justice for all.

## Clarification of Tribal Civil Jurisdiction

S. 1925 would confirm the intent of Congress in enacting the Violence Against Women Act of 2000 by clarifying that every tribe has full civil jurisdiction to issue and enforce certain protection orders involving any persons, Indian or non-Indian. This section would effectively reverse *Martinez v. Martinez*, 2008 WL 5262793, No. C08-55-3 FDB (W.D. Wash. Dec 16,2008), which held that an Indian tribe lacked authority to enter a protection order for a nonmember Indian against a non-Indian residing on non-Indian fee land within the reservation.

### Martinez Case

Daniel and Helen Martinez lived on non-Indian fee owned land within the reservation boundaries of the Suquamish Tribe. Helen Martinez and their children are members of the Alaska Native Village of Savoonga. Between 2007 and 2008 both parties filed and utilized tribal court on domestic matters involving protection orders, child custody, visitation, and divorce.

The Court raised many eyebrows in the logic of its ruling. “The Court does not construe the provisions of the VAWA as a grant of jurisdiction to the Suquamish Tribe to enter domestic violence protection orders as between two

non-members of the Tribe that reside on fee land within the reservation. There is nothing in this language that explicitly confers upon the Tribe jurisdiction to regulate non-tribal member domestic relations. The grant of jurisdiction simply provides jurisdiction “in matters arising within the authority of the tribe.”

The Suquamish Tribal Code specifically provides that any person may petition the tribal court for an order of protection by filing a petition alleging he or she has been the victim of domestic violence committed by the respondent. Suquamish Tribal Code § 7.28.2. However, the Court’s position that “There must exist ‘express authorization’ by federal statute of tribal jurisdiction over the conduct of non-members. (p.6) For there to be an express delegation of jurisdiction over non-members there must be a ‘clear statement’ of express delegation of jurisdiction.”

Confusion from the *Martinez* case may cause many victims of domestic and sexual violence seeking a protection order from a tribal court to question whether such an order will increase their safety. Orders of protection are a strong tool to prevent future violence but are only as strong as the recognition and enforcement provided by other jurisdiction of such an order.



NATIONAL CONGRESS OF AMERICAN INDIANS

May 3, 2012

The Honorable Lamar Smith  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn  
Washington, DC 20515

The Honorable John Conyers  
Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
B-351 Rayburn  
Washington, DC 20515



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EXECUTIVE DIRECTOR  
**Jacqueline Johnson Pata**  
*Tlingit*

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Sincerely,

Jacqueline Johnson Pata  
Executive Director

Dear Chairman Smith and Ranking Member Conyers:

The National Congress of American Indians (NCAI), the nation's oldest, largest, most representative national organization made up of Alaska Native and American Indian tribal governments, expresses its strong opposition to H.R. 4970, the Reauthorization of the Violence Against Women Act (VAWA).

H.R. 4970 fails to protect all victims. It weakens vital improvements contained in the bipartisan Save Native Women Act (H.R. 4154) and the recently passed bipartisan Senate VAWA bill (S. 1925), including provisions designed to address the needs of the LGBT community, immigrant victims, and—most critical to us—Native victims. The tribal provisions that were excluded from H.R. 4970 will address a longstanding jurisdictional gap on tribal lands with local solutions that deliver long-overdue justice to Native women and safety to tribal communities. These tribal provisions are essential to the safety of Native women, and NCAI cannot support any VAWA bill that leaves them out.

Federal gaps in jurisdiction have caused a crisis of domestic and sexual violence on Indian lands. Native women are raped and assaulted at 2.5 times the national average. The U.S. Department of Justice (DOJ) has found the current system of justice, "inadequate to stop the pattern of escalating violence against Native women." Tribal leaders, police officers, and prosecutors have testified that violence that goes unaddressed—with beating after beating, each more severe than the last—all too often leads to death or severe physical injury. The VAWA tribal provisions would give tribes the tools they need to address these crimes in the early stages—before they escalate to serious assault and homicide.

We understand that two concerns have been raised regarding the tribal provisions: data and constitutionality. On the data, committee staff seem to rely on a report from the South Dakota Attorney General's office "Understanding Contextual Difference in American Indian Criminal Justice." Upon analysis, this report supports our concern that domestic violence crimes committed by non-Indians are often unprosecuted. The DOJ statistics measure reported assaults. This paper compares that to prosecutions, and concludes that most of the defendants in South Dakota are Indians. That is our point – non-Indians commit many assaults on Indians, and they are not prosecuted. This is particularly true in South Dakota.

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often unprosecuted. The DOJ statistics measure reported assaults. This paper compares that to prosecutions, and concludes that most of the defendants in South Dakota are Indians. That is our point – non-Indians commit many assaults on Indians, and they are not prosecuted. This is particularly true in South Dakota.

On constitutionality, you may have seen the letter from 50 law professors supporting the legislation’s constitutionality. We would add only one point. At the time of the Constitution’s framing, the Founders clearly understood as both a factual matter and as a legal matter that non-Indians who voluntarily lived among the Indians on tribal lands were subject to tribal law. This original understanding of tribal government status

found within the Constitution is dispositive in our view, but is also supported by modern Supreme Court precedent.

We strongly oppose H.R. 4970 and urge all members of the Judiciary Committee to oppose it. We support the alternative House VAWA bills – H.R. 4982 or H.R. 4271 – with improvements, including those provisions in the bipartisan Senate bill that protect all victims from marginalized communities.

Sincerely,  
Jacqueline Johnson Pata  
Executive Director



Dear Colleague:

As the Senate considers the Violence Against Women Reauthorization Act this week, we want to provide additional information about the tribal jurisdiction provision (Section 904) in the bill that will help ensure greater protection for Native American women. Native American women are 2-1/2 times more likely than other U.S. women to be raped. It is estimated that in her lifetime, one out of every three Native American women will be sexually assaulted, and three out of every five Native women will experience domestic violence. To make matters worse, many of these crimes go unprosecuted and unpunished.

Under existing law, tribes have no authority to prosecute non-Indians for domestic violence crimes against their Native American spouses or partners on tribal lands. Yet, over 50% of Native women are married to non-Natives and 76% of the overall population living on tribal lands are not Native Americans.

Currently, these crimes fall exclusively under federal jurisdiction. But federal prosecutors have limited resources and they may be located hours away from tribal communities. As a result, non-Indian perpetrators regularly go unpunished, their violence is allowed to continue and, all too often, it results in death for Native American women.

Section 904 of the Violence Against Women Reauthorization Act provides a remedy for this serious criminal jurisdictional loophole. This tribal jurisdiction provision allows tribal courts to prosecute non-Indians in a very narrow set of cases that meet specific, reasonable conditions.

This provision does not extend tribal jurisdiction to include general crimes of violence by non-Indians, crimes between two non-Indians, or crimes between persons with no ties to the tribe. And nothing in this provision diminishes or alters the jurisdiction of any federal or state court.

Some question whether a tribal court can provide the same protections to defendants that are guaranteed in a federal or state court. The bill requires tribes to provide comprehensive protections to all criminal defendants who are prosecuted in tribal courts, whether or not the defendant is an Indian. Defendants would essentially have the same rights in tribal court as in state court.

Questions have also been raised about whether Congress has the constitutional authority to expand tribal criminal jurisdiction to cover non-Indians. This issue was carefully considered in drafting the tribal jurisdiction provision. The Indian Affairs and Judiciary Committees worked closely with the Department of Justice to ensure that the legislation is constitutional. Fifty prominent law professors sent a letter to Congress expressing their "full confidence in the constitutionality of the legislation, and in its necessity to protect the safety of Native women." Their letter provides a detailed analysis of the jurisdiction provision and concludes that "the expansion of tribal jurisdiction by Congress, as proposed in Section 904 of S. 1925, is constitutional."

Section 904 will create a local solution for a local problem. By allowing tribes to prosecute the crimes occurring in their own communities, they will be equipped to stop the escalation of domestic violence.

Right now, many Native women don't get the justice they deserve. We must act to eliminate a double standard in the law. Tribes are already successfully prosecuting, convicting, and sentencing Native Americans who commit crimes of domestic violence against Native American women. This bill would allow tribes to do the same when a non-Indian commits an identical crime.

We encourage our colleagues to fully support the tribal provisions in this important bill.



April 24, 2012

Dear Colleague:

As the

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We encourage our colleagues to fully support the tribal provisions in this important bill.

If you have questions, or would like additional information, please contact Ed Chung at 4-0572 or Matt Nelson at 4-7831 or [matt\\_nelson@tomudall.senate.gov](mailto:matt_nelson@tomudall.senate.gov).

Sincerely,

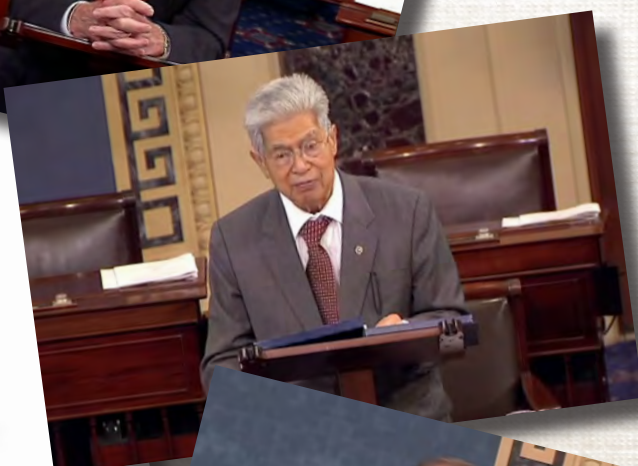
*Patrick J. Leahy*  
Patrick J. Leahy  
U.S. Senator

*Daniel K. Akaka*  
Daniel K. Akaka  
U.S. Senator

*Tom Udall*  
Tom Udall  
U.S. Senator

*Al Franken*  
Al Franken  
U.S. Senator

*Patty Murray*  
Patty Murray  
U.S. Senator



Sincerely,

Patrick J. Leahy  
U.S. Senator

Daniel K. Akaka  
U.S. Senator

Tom Udall  
U.S. Senator

Al Franken  
U.S. Senator

Patty Murray  
U.S. Senator





## Passage of More Inclusive Violence Against Women Act

U.S. Senator Patty Murray released the following statement after the U.S. Senate passed the Violence Against Women Reauthorization Act of 2011 by a vote of 68-31.

“Today, like each time we have reauthorized this bill before, we passed a better Violence Against Women Act. It’s a better bill because it not only ensures that existing safeguards are kept in place, it also expands protections to cover those who’ve needlessly been left to fend for themselves. Expanding coverage for domestic violence should never have been controversial. Where

a person lives, who they love, or what their citizenship status may be should not determine whether or not their perpetrators are brought to justice. I’m glad that in the end we were able to come together around an inclusive, bipartisan bill and I’m hopeful that the House of Representatives can do the same.

“I was so proud to have been serving in the Senate in 1994 when we first





passed the Violence Against Women Act. Since we took that historic step, VAWA has been a great success in coordinating victims' advocates, social service providers, and law enforcement professionals to meet the immediate challenges of combating domestic violence. VAWA has attained such broad support because it's worked. Since it became law 18 years ago, domestic violence has decreased by 53%. We've made

a lot of progress since then and I am glad we are continuing on that path on behalf of all women today."

Yesterday, Senator Murray was joined by Deborah Parker, Vice Chairwoman of the Tulalip Tribes, to discuss these critical provisions that will provide new protections for victims of domestic violence that were not previously covered by VAWA. Among these improvements

is the ability for local justice officials in tribal communities to bring non-Indians who live and commit crimes against women on tribal lands to justice. Currently, federal prosecutors decline to prosecute a majority of violent crimes that occur in Indian country, including a large number of sexual abuse related cases.



## Senator Patty Murray:

Well thank you very much to all of you for being here today. We are here again to talk about the Violence Against Women Act and it really is a shame that we have gotten to this point that we have to stand here today to work to pass legislation that is consistently received broad, bipartisan approval.

The Violence Against Women Act has successfully helped provide life-saving assistance to literally hundreds of thousands of women and families, and every time we have reauthorized this bill we included bipartisan provisions to address those that are not being protected in some way by it today.

However for some reason this time, some of our colleagues would like to pick and choose who qualifies for this assistance. Why? Well it's apparently because we have decided, in 2012, that we as a country need to be more inclusive when it comes to protecting and providing resources for all women affected by violence.

You're going to hear from one of those today, her name is Deborah, she is the Vice Chairwoman of the Tulalip tribes in my home state of Washington. She knows and will tell you firsthand about the devastating affects violence can have on women, especially native women living on reservations, and she knows this should not be a partisan issue.

This bill is written to protect the rights of accused abusers while allowing for justice for native women who are all too often the victims of domestic violence.

In fact, in one year alone, 34% of native women will be raped, 39% of native women will be subjected to domestic violence and 56% of native women will marry a non-Indian who most likely will not be liable, or held liable, for any violent crime committed if these protections are not included in this legislation.

For the narrow set of domestic violence crimes laid out in VAWA, tribal governments should be able to hold accountable defendants that have a strong tie to the tribal community.

You know, I was here with Senator Boxer and others in 1994 when we first passed this legislation and since we took that courageous and historic step, VAWA has been a great success in coordinating victim's advocates, social service providers, law enforcement professionals to meet the immediate challenges of domestic violence



and along with the bipartisan support it has received praise from law enforcement officers, prosecutors, judges, victim service providers, faith leaders, healthcare professionals, advocates, survivors. And why has VAWA received such broad bipartisan support? Because it worked.

The debate we're having over the provisions in this legislation is a matter of fairness. Where a person lives, their immigration status, who they love should never determine whether or not a perpetrator of domestic violence is brought to justice.

These women don't deserve political theatre. Let's get to this bill, get it passed, and make sure that all women and men are protected from domestic violence. I'm very proud to be here today with Senator Boxer, who has been a champion for many years and Senator Klobuchar who has been a lead actionist on this and just knows this issue inside and out who are standing with me today to urge the Senate to take this up and get it passed quickly and to the President. Thank you.





### Deborah Parker:

Thank you Senator Murray, Senator Boxer and Senator Klobuchar.

Good morning, my name is Deborah Parker I am an enrolled member of the Tulalip tribes of the State of Washington. I am currently serving as the Vice Chairwoman of the Tulalip tribes. I am here today to support the Violence Against Women Act. I was here on an Environmental Protection Agency issue on Monday and did not plan on providing my story while at the nation's capitol. However, I could not allow another day of silence to continue.

Yesterday I shared with Sen. Murray the reasons why the Violence Against Women Act is so important to our Native American women. I did not expect that I would be sharing my own personal story.

I am a Native American statistic. I am a survivor of sexual and physical violence. My story starts in the 70's as a toddler. You may wonder: How do I remember when this occurred? I was the size of a couch cushion. A red

velvet, approximately 2 ½ feet couch cushion, one of the many girls violated and attacked by a man who had no boundaries or regards for a little child's life, my life. The man responsible was never convicted.

In the early 80's, at a young age, I was asked to babysit my auntie's children. During the late hours of the evening she arrived, but was not alone. Instead of packing my things to go home, my sense was to quickly grab the children. The four or five men that followed my auntie home raped her. I had to protect the children and hide. I could not save my auntie; I only heard her cries. Today is the first time that I have ever shared this story. She died at a young age. The perpetrators were never prosecuted.

During this time, on our reservation, there was no real law enforcement, and because I know the life of native woman was short, I fought hard to attend college in the early '90s, and studied criminal justice so that I could be one to protect our women. However, I am only one, and we still have no real protection for women on our reservations.

In the late '90s I returned from college and started a program to help young female survivors. We have saved many lives during the creation of this program. However, one of my girls Sophia was murdered on my reservation by her partner. I still remember this day very strongly. And yet, another one of our young girls took her life. A majority of our girls have struggled with sexual and domestic violence. Not once, but repeatedly.

My question for Congress was and has always been, why did you not protect me or my family? Why is my life, and the life of so many other Native American women less important? It is now 2012; I am urging Congress to uphold the US constitution. And honor US treaty agreements: to provide protection, education, health, and safety of our indigenous men and women of this country.

Please support the Violence Against Women Act. And send a strong message across the country that violence against Native American women is unlawful and not acceptable, in any of our lands. Our tribal courts will work with you to ensure that violators are accountable and victims are made whole and well. Thank you for listening to my story. I am blessed to be alive today. I send my love and prayers to all of the other victims and survivors of sexual and domestic violence.

Thank you.



# Senator Tom Udall Floor Statement on Tribes and VAWA

## On the importance of the Tribal Provisions of S.1925

I rise today to express my support for the Violence Against Women Reauthorization Act. But more specifically, I want to talk about how crucial the tribal provisions in this bill are for Native American women.

For the past 18 years, this historic legislation has helped protect women from domestic violence, sexual assault, and stalking. It has strengthened the prosecution of these crimes and it has provided critical support to the victims of these crimes.

It has been a bipartisan effort with broad support. Democrats. Republicans. Law enforcement officers, prosecutors, judges, health professionals. All have supported this federal effort to protect women. Why? Because it has worked.

Since its passage in 1994, domestic violence has decreased by over 50 percent. And the victims of these crimes have been more willing to come forward. Knowing they are not alone. Knowing they will get the support they need. Knowing that crimes against women will not be tolerated.

Unfortunately, not all women have received the full benefits of the Violence Against Women Act. That is why the tribal provisions in the reauthorization are so important. Native American women are 2 1/2 times more likely than other U.S. women to be raped. One in three will be sexually assaulted in their lifetimes, and it is estimated that three out of every five Native women will experience domestic violence.

Those numbers are tragic. Those numbers tell a story of great human suffering. Of women in desperate situations. Desperate for support. And too often we have failed to

provide that support.

But the frequency of violence against Native women is only part of the tragedy. To make matters worse, many of these crimes go unprosecuted and unpunished.

Here's the problem. The tribes have no authority to prosecute non-Indians for domestic violence crimes against their Native American spouses or partners within the boundaries of their own tribal lands. And yet over 50% of Native women are married to non-Indians, and 76% of the overall population living on tribal lands are non-Indians.

### **Title 9 will create a local solution for a local problem. By allowing tribes to prosecute the crime occurring in their own communities, they will be equipped to stop the escalation of domestic violence.**

Instead, under existing law, these crimes fall exclusively under Federal jurisdiction. But Federal prosecutors have limited resources and they may be located hours away from tribal communities. As a result, non-Indian perpetrators often go unpunished. The cycle of violence continues and often escalates at the expense of their Native American victims.

On some tribal lands, the homicide rate for Native women is up to 10 times the national average. But this starts with small crimes. Small acts of violence that may not rise to the attention of a Federal prosecutor. In 2006 and 2007, U.S. Attorneys prosecuted only 45 misdemeanor crimes on tribal lands. For perspective, the Salt River Reservation in Arizona - which is relatively small - reported more than

450 domestic violence cases in 2006 alone. Those numbers are appalling.

Native women should not be abandoned to a jurisdictional loophole. In effect, these women are living in a prosecution-free zone. The tribal provisions in the Violence Against Women Reauthorization Act provide a remedy. The bill allows tribal courts to prosecute non-Indians in a narrow set of cases that meet the following specific conditions:

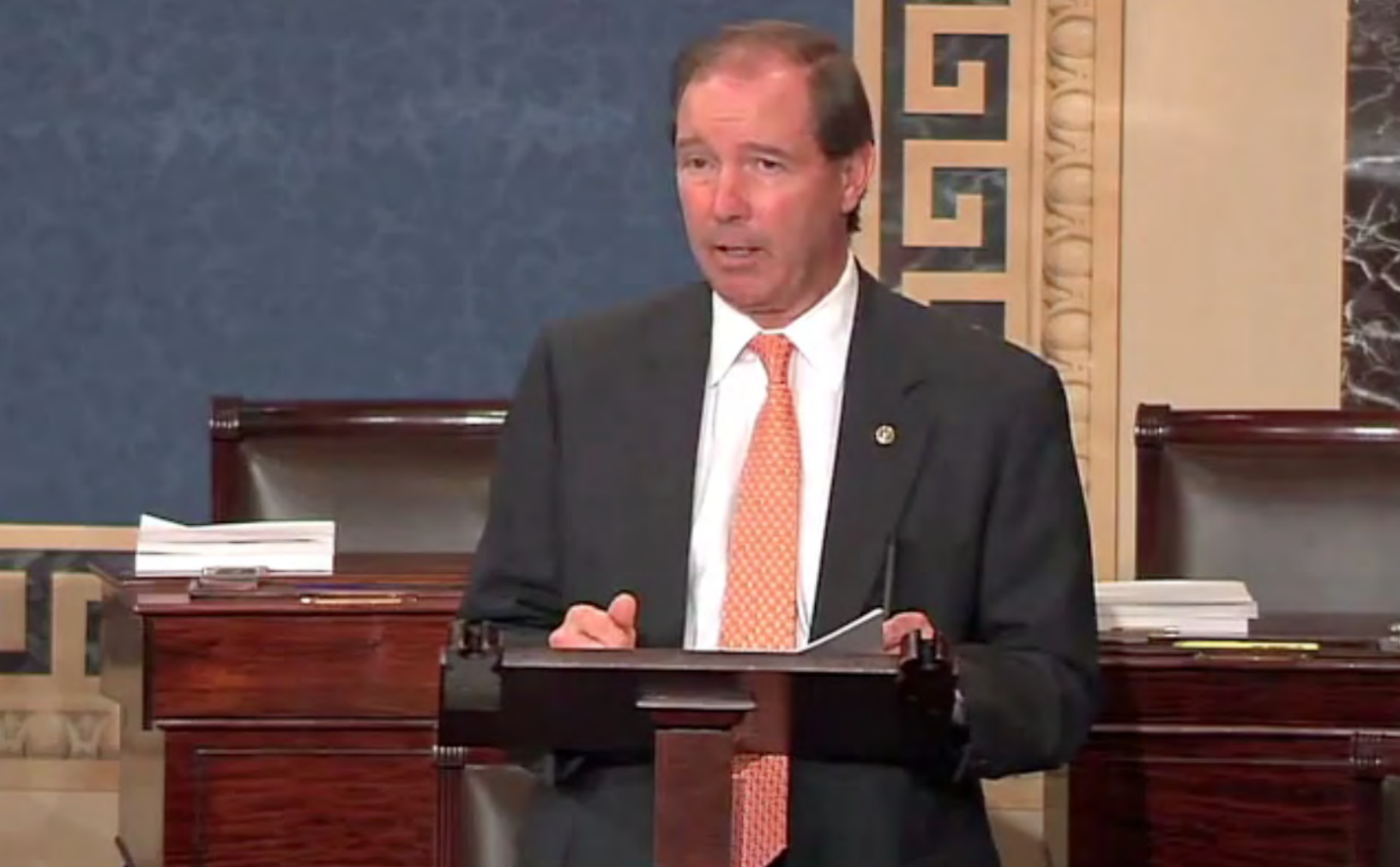
- The crime must have occurred in Indian country;
- The crime must be either a domestic violence or dating violence offense, or a violation of a protection order; and
- The non-Indian defendant must reside in Indian country, be employed in Indian country, or be the spouse or intimate partner of a member of the prosecuting tribe.

This bill does not extend tribal jurisdiction to include general crimes of violence by non-Indians, crimes between two non-Indians, or crimes between persons with no ties to the tribe. Nothing in this provision diminishes or alters the jurisdiction of any Federal or state court.

I know some of my colleagues question if a tribal court can provide the same protections to defendants that are guaranteed in a Federal or state court. The bill addresses this concern and provides comprehensive protections to all criminal defendants who are prosecuted in tribal courts, whether or not the defendant is a Native American. Defendants would essentially have the same rights in tribal court as in state court.

These include the rights to counsel, to a speedy trial, and to due process;





and the rights against unreasonable search and seizures, double jeopardy, and self-incrimination; among many others. In fact, a tribe that does not provide these protections cannot prosecute non-Indians under this provision.

Some have also questioned whether Congress has the authority to expand tribal criminal jurisdiction to cover non-Indians. This issue was carefully considered in drafting the tribal jurisdiction provision and the Indian Affairs and Judiciary Committees worked closely with the Department of Justice to ensure that the legislation is constitutional. In fact, just last week fifty prominent law professors sent a letter to the Senate and House Judiciary Committees expressing their “full confidence in the constitutionality of the legislation, and in its necessity to protect the safety of Native women.” Their letter provides a detailed analysis of the jurisdiction provision. It concludes that “the expansion of tribal jurisdiction by Congress, as

proposed in Section 904 of S. 1925, is constitutional.” I would ask that the full text of their letter be included in the Record.

I respect my colleague’s concerns about the tribal provisions of this bill and I am willing to work with any Senator who may have concerns about these provisions. Native American Law can be daunting, but I want to stress just how much effort, research, and consultation went into drafting the tribal provisions in VAWA. Title 9 is taken almost entirely from S.1763, the Stand Against Violence and Empower Native Women Act (the SAVE Native Women Act). This bill was based on a Department of Justice proposal submitted to Congress last July. That proposal was the product of extensive multi-year consultations with tribal leaders about public safety generally and violence against women specifically and it builds on the foundation laid by the Tribal Law and Order Act of 2010.

The SAVE Native Women Act was cleared by the Indian Affairs Committee in a unanimous voice vote. Shortly thereafter, its core provisions were again vetted and incorporated in the Judiciary Committee’s Violence Against Women Act Reauthorization as Title 9. In short, the Safety for Indian Women title has been vetted extensively, and enjoys wide and bipartisan support.

The tribal provisions in this bill are fundamentally about fairness and affording Native women the protections they deserve. As a former Federal prosecutor and Attorney General of a state with a large Native American population, I know firsthand how difficult the jurisdictional maze can be for Tribal Communities. And one result of this maze is unchecked crime. In situations where personnel and funding run thin, and distance is a major prohibitive factor, violence often goes unpunished.



Title 9 will create a local solution for a local problem. By allowing tribes to prosecute the crime occurring in their own communities, they will be equipped to stop the escalation of domestic violence.

And tribes have already proven to be effective in combating crimes of domestic violence committed by Native Americans. But let me reiterate this very important point - without an act of Congress, tribes cannot prosecute a non-Indian, even if he lives on the reservation and is married to a tribal member. Without this act of Congress, tribes will continue to lack authority to protect the women who are members of their own tribes. With this bill we can close a dark and desperate loophole in criminal jurisdiction.

Beyond extending the jurisdiction of tribes within specific constraints, this bill will also promote other efforts to protect Native women from an epidemic of domestic violence. By increasing grants for tribal programs to address violence and for research on violence against Native women. And also by allowing federal prosecutors to seek tougher sentences for perpetrators who strangle or suffocate their spouses or partners.

All of these provisions are about justice. Right now, Native women don't get the justice they deserve. But these are strong women. They,

rightly, demand to be heard. They have identified a desperate need and support logical solutions. That is why Native women and tribal leaders across the nation support the Violence Against Women Reauthorization Act and the proposed tribal provisions.

Let us work with these women to create as many tools as possible for confronting domestic violence.

There are many-far too many-stories of desperation that illustrate why the provisions protecting Native women are in this bill. I want to share just one such story now.

This is the story of a young, Native American woman, married to a non-Indian. He began abusing her two days after their wedding. They lived on her reservation. In great danger, she filed for an order of protection, as well as a divorce, within the first year of the marriage. The brutality only increased. It ended with the woman's abuser going to her place of work-which was located on the reservation-and attempting to kill her with a gun. A co-worker, trying to protect her, took the bullet.

Before that awful day, this young woman had nowhere to turn for help. In her own words, "After a year of abuse and more than 100 incidents of being slapped, kicked, punched and living in horrific terror, I left for good. During the year of marriage

I lived in constant fear of attack. I called many times for help but no one could help me."

The tribal police did not have jurisdiction over the daily abuse because the abuser was a non-Indian. The federal government had jurisdiction but chose not to exercise it because the abuse was only misdemeanor level, prior to the attempted murder. The state did not have jurisdiction because the abuse was on tribal land and the victim was Native American.

Her abuser at one point after an incident of abuse actually called the county sheriff himself to prove that he was untouchable. The deputy sheriff came to the home on tribal land, but left saying he did not have jurisdiction.

This is just one of the daily, even hourly, stories of abuse. Stories that should outrage us all. And that could end through local intervention. Local authority that will only be made possible through an act of Congress. We have the opportunity to support such an act in the tribal provisions of VAWA.

I encourage my colleagues to fully support the tribal provisions in this important bill.



### *"Strong Women"*

*An oil painting by artist Evelyn Teton of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation on display in Room B-308, Rayburn House Office Building. The women overlook the work of the House Appropriations Subcommittee on Interior, Environment, and Related Agencies chaired by Rep. Mike Simpson, the Shoshone-Bannock Tribes' Representative in the House.*



# VAWA Reauthorization Delayed by House and Senate Dispute

By JOHN HARTE, MAPETSI POLICY GROUP

In April of this year, Congress took historic strides toward restoring local tribal governmental authority over all acts of domestic violence on Indian lands. However, within weeks, it backtracked on that progress.

## Competing Bills

On April 26th, the U.S. Senate, by a strong bi-partisan vote of 68-31, passed S. 1925, the Leahy-Crapo Violence Against Women Act (VAWA) Reauthorization of 2012. The bill had the support of 15 Republicans and all the female Senators. S. 1925 would reauthorize and improve programs to prevent violence against Native women and restore criminal jurisdiction over all reservation-based acts of domestic and dating violence, regardless of the race of the offender.

On May 16th, 3 weeks after the Senate passed S. 1925, the House of Representatives passed its version of the VAWA Reauthorization, H.R. 4970, which excluded these critical tribal provisions. The roll call vote was close, 222-205, with six Democrats voting in favor of the bill and 23 Republicans voting against.

Several House Members claimed that the tribal jurisdiction provisions were unconstitutional. They also questioned the validity of the statistics of violence by non-Natives on Indian lands, arguing that the provisions are unnecessary.

In addition to excluding the tribal provisions, the House bill also omitted protections to immigrants and members of the LGTB community who are victims of domestic violence.

## Urgent Need for Local Control

The Senate provisions seek to reverse decades of an epidemic of domestic abuse and sexual violence that has plagued many tribal communities since the Supreme Court's misguided decision in *Oliphant v. Suquamish Indian Tribe*.

In 1978, the *Oliphant* Court held that Congress implicitly divested Indian tribes of criminal jurisdiction over non-Indians. The Court acknowledged that "tribal court systems have become increasingly sophisticated.... [And] we are not unaware of the prevalence of non-Indian crime on today's reservations which the tribes forcefully argue requires the ability to try non-Indians. But these are considerations for Congress to weigh."

Those words and that decision have haunted Indian

country for nearly 35 years. Stripping tribal governments of local authority over domestic violence has had a devastating impact on tribal public safety. More than 1 in 3 Native women will be raped, and 3 in 5 will suffer domestic violence. On some reservations, the female murder rate is more than 10 times the national average.

The absence of local tribal criminal authority over non-Indians leaves a gaping hole in the criminal justice system in Indian country. The federal government (and some states) have exclusive authority over non-Indian crimes. However, U.S. Attorneys (and, where applicable, state DAs) do not have the resources, time, or commitment to travel to Indian country to investigate and prosecute misdemeanor crimes of domestic violence. These entities have shown they do not pursue or enforce the law on even major crimes.

GAO recently reported that U.S. Attorneys declined to prosecute 52% of violent reservation crimes, including 67% of sexual assaults.

The lack of prosecutions has empowered the abuser, silenced the voices of the victims, their families, and the tribal community, and caused an increasing loss of faith in the justice system for many residents of Indian country.

Native women have come forward since this debate began. One woman told ABC News of her horror of living in constant fear of attack. She said that her abuser went as far as calling the police himself, knowing that no one would come to her aid.

## The Path to Reauthorization

To get VAWA Reauthorization to the President's desk, the House and Senate will have to reconcile the differences between the two versions. While this process remains uncertain at this point, House and Senate leaders will have to work through a conference committee to hammer out a resolution. The Judiciary

**"He started flaunting it... Who's going to arrest me? I dare you to call the police. I'll call the police for you. And he did."**

Anonymous 45-year old Native woman from the Southwest as told to ABC News in its report "Battered Indian Women Caught in Legal Limbo."



Committees of both chambers and the congressional leadership offices will play a major decision-making role on the final language. Action on a final bill is expected this summer.

To maintain and gain momentum behind the tribal jurisdiction provisions, tribes nationwide are encouraged to engage in a public relations effort to show the great need for local tribal control. To this end, tribal governments and public safety departments nationwide may want to consider sharing statistics or anecdotal stories regarding the problems of domestic or sexual violence in the community with a focus on problems

created by the lack of tribal governmental control over non-Indians.

In addition, national and regional tribal organizations have united to send a letter that urges congressional leaders to include the tribal provisions in the final version of VAWA. Tribes are also encouraged to contact their congressional delegations to continue to apply pressure and to ensure that the Senate's tribal criminal jurisdiction provisions are included in the final VAWA Reauthorization.

## Congressional Native American Caucus Holds House Briefing: The Violence Against Women Reauthorization Act & Safety for Native Women

### Statement of Terri Henry

Good Morning. My name is Terri Henry, and I am a Co-Chair for the NCAI Task Force on Violence Against Native Women. I also am a Councilwoman for the Eastern Band of Cherokee Indians.

I appreciate the opportunity to be part of this briefing on the Violence Against Women Reauthorization

Act and safety and justice for Native women. Violence against women has been called one of the most pervasive human rights crises plaguing the United States. Since 1994, VAWA has provided critical support to protect American women from domestic violence, sexual assault, and stalking. Unfortunately, not all women in this country are protected equally under VAWA. The fact of the matter is that, because of

systemic barriers in current federal law that affect jurisdiction in Indian country, many Native American women are simply not being protected from violence at all.

While VAWA has helped decrease overall rates of domestic violence by 50% over the last 18 years, Native women in the United States are still being subjected to domestic violence and assault at staggering rates,





rates 2.5 times higher than any other group of women in the United States.

1 in 3 Native women will be raped; and 3 out of 5 will be physically assaulted. Even worse, on some Indian reservations, Native women are being murdered at a rate 10 times the national average.

The root cause of the epidemic rates of violence against Native women is the lack of tribal authority to prosecute non-Indians for domestic violence, individuals committing some 88% of these offenses. And this violence is occurring at a time when 76% or more of the residents on Indian reservations are now non-Indian and over 50% of Native women are married to non-Indians.

Tribal efforts to ensure the safety of Native women are systemically thwarted by federal laws such as the Major Crimes Act, under which the federal government assumed exclusive jurisdiction over certain felony crimes committed within Indian country, and Public Law 280, which transferred criminal jurisdiction over crimes occurring in Indian country from the United States to certain states.

For more than a century, the United States has unilaterally limited tribes' ability to protect Native women from violence and to provide them with meaningful remedies. It has done so by creating a discriminatory system for administering justice in Native communities—a system highlighting this country's failure under its federal trust responsibility to tribes and its obligations under international human rights instruments such as the UN Declaration on the Rights of Indigenous Peoples.

Within Indian country, we deal with a jurisdictional maze that requires law enforcement officials and

prosecutors to do a case-by-case analysis of the status of the land where each crime occurred, the type of crime, and the race of both the perpetrator and victim. This race-based scheme threatens the safety of Native women every minute of every day, violates their human rights by treating them differently from all other women, and creates confusion about which government—federal, tribal, or state—has legal authority to respond to, investigate, and prosecute crimes.

Most of these Indian country crimes fall under federal jurisdiction, yet, by their own account, U.S. attorneys decline to prosecute 67% of the Indian country matters referred to them that involve sexual abuse and related matters. PL 280 impacts the criminal justice systems for 51% of tribes in the lower-48 and potentially all Alaska Natives and their villages. Indian leaders and advocates have raised urgent concerns about the failure of states to respond to and prosecute crimes on tribal lands subject to a PL 280 regime. The situation in Alaska is especially grim, as many Alaska Native communities lack any law enforcement whatsoever.

The erosion of the criminal authority of tribes over all persons committing crimes within their jurisdictions, coupled with a shameful record of investigation, prosecution, and punishment of these crimes by federal and state governments who do have jurisdiction, allows criminals to act with impunity in Indian country. This perpetuates an escalating cycle of domestic violence in Native communities that threatens and often takes the lives of Native women. Native women who are subjected to violence should not be treated differently and discriminated against just because they are Indian and were assaulted on an Indian

reservation.

The Violence Against Women Act of 2005 expressly recognized that “the unique legal relationship of the United States to Indian tribes creates a Federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women.” Congressional support for tribal jurisdiction provisions, such as those in S. 1925, the Violence Against Women Reauthorization Act, approved by the Senate last week with bipartisan support, would be an incremental step forward in fulfilling that responsibility, filling the jurisdictional gap in Indian country, and restoring safety to Native women.

The tribal provisions, as proposed in Section 904 of S. 1925, would restore concurrent tribal criminal jurisdiction over non-Indians who commit a limited set of crimes involving domestic violence, dating violence, and violations of protection orders and who have significant ties to the prosecuting tribe. Tribal courts exercising such specific domestic violence jurisdiction must provide all defendants, whether Indian or non-Indian, with the same protections they would get in a federal or state court. Nothing in that bill would alter or diminish existing federal or state jurisdiction. It is only aimed at doing something to help tribes end the epidemic levels of violence against Native women—something to provide long overdue justice to Native women.

Only Congress can restore safety and justice to Native women, and we urge you not to remain complicit. Do something. Please fully support the inclusion of tribal provisions in VAWA to help tribes end the epidemic levels of violence against Native women.





NCAI photo by Thom Wallace

## Statement of Diane Millich

Early yesterday morning I drove from my home to Durango and flew to DC in the hope that my story will help to explain why it is urgent that Indian tribes have jurisdiction over non-Indians abusers living and working on tribal land.

I have been diagnosed with lupus and will begin chemotherapy in just a few days on May 12th. I have a serious illness and want you to know this so it will help you appreciate and understand just how important section 904 and 905 are to me and thousands of other Native women.

When I was 26 years old I lived on my reservation and started dating a non-Indian; a white man. I was in

love and life was wonderful. After the bliss of dating six months we were married. To my shock just days after our marriage he assaulted me. I left and returned over 20 times. After a year of abuse and more than 100 incidents of being slapped, kicked, punched, and living in horrific terror I left for good. During that year of marriage I lived in constant fear of attack. I called many times for help but no one could help me.

I called the Southern Ute Tribal Police but the law prevented them from arresting and prosecuting my husband. Why? They could not help me because he was a non-Indian; because he was white. We lived on the reservation but tribal police have no authority over a non-Indian. I called the La Plata County deputy sheriff but they could not help

me because I was a Native woman living on tribal land.

All the times I called and tribal police came and left only made my ex-husband believe he was above the law. All the times the county deputy sheriffs came and left only made him believe he could beat me and that he was untouchable. My reporting the violence only made it worse.

I called so many times but over the months not a single arrest was made. On one occasion after a beating my ex-husband called the County Sheriff himself to show me that no one could stop him. He was right two deputies came and confirmed they did not have jurisdiction. I was alone and terrified for my safety.

Section 904 would have allowed tribal law enforcement to have arrested my abuser and stopped the violence being committed against me. It will allow an Indian tribe that meets all of the requirements of the statute to arrest and prosecute a non-Indian that lives or works on an Indian tribe's land and commits misdemeanor domestic violence or violates an order of protection.

My story would have been different if Section 904 had been the law at the time.

Instead the violence that started with slapping and pushing escalated over the months. All the signals he received were green lights to continue his violence and destruction of my home, property and my life. The brutality increased after I left and filed for a divorce and the order of protection.

I felt like I was walking on eggshells and knew inside that something terrible was going to happen. I was at home and he pulled up to my house I ran and got in my car while he tried to break the windows. After I fled he broke into the house breaking windows, furniture and



dishes. He cut the knuckles of his hands during the violence and smeared his blood over the walls, floor and my bedroom sheets. My home was destroyed.

The next day I was at work and saw him pull up in a red truck. I was so afraid that something terrible was going to happen. My ex-husband told me that, "you promised until death due us part so death it shall be." He was armed with a 9MM gun.

If not for my very brave co-worker I would not be alive today. My co-worker prevented my murder by pushing me out of harm and unfortunately took the bullet in his shoulder.

The shooting took place at a federal Bureau of Land Management land site where we both worked. The jurisdictional issue is so complicated that after the shooting at the scene investigators used a measuring tape to determine jurisdiction; the point where the gun was fired from and bullet landed. It took hours just to decide who had jurisdiction over the shooting.

The nightmare only continued after the shooting because he fled the scene and was not apprehended until arrested two weeks later in New Mexico on drug and weapons offenses. I stayed at a shelter from the time of the shooting until the arrest.

The United States Attorney and District Attorney agreed the District would prosecute the case. Because he had never been arrested or charged for any of the domestic violence crimes against me on tribal land, the District treated him as a first time offender. They offered him a plea agreement.

The District Attorney offered a plea of aggravated driving under revocation. He took it immediately. In the end, none of the domestic violence or the shooting incident were charged. It

was like his attempt to shoot me and the shooting of my co-worker did not happen.

The tribe wanted to help me and would have charged the domestic violence crimes but could not because of the law. In the end he was right in that he was above the law.

I also could not receive victim compensation to help with the destruction to my home, car and property because the violence was committed on tribal land and the case prosecuted by the District Attorney.

I also want to share with you why section 905 is also so important to Native women that are victims of domestic violence and dating violence.

We need help and are told that an order of protection will prevent future violence. Although the Southern Ute Indian tribe could not prosecute my husband the tribal court did grant me an order of protection. The tribal court and I both believed the order of protection would help keep me safe. That it would prevent future violence.

Unfortunately, my abuser believed he was above tribal law. He did not consider the tribal order valid and laughed at it. His abuse increased after I was granted the order. It increased also after the county refused to enforce the order.

Section 905 will clarify that a tribal court does have the authority to issue orders of protection over all person and also enforce the order.

The message to my ex-husband is clear that his violence against me because I am an American Indian woman living on my tribal land has no legal consequence. The legal system following the law failed me.

I want everyone here today to know that American Indian women do not

have the same protections as non-Indian women. Federal law as you have heard from my story has a large gapping hole in it for abusers that are non-Indian. It is important that you understand that this is about race in America today.

If I were white my story would be different. If I lived off of tribal land my story would be different. I am a Native woman and my family has lived on our reservation for over seven generations. These are facts that will not change.

Please speak for us. Thank you.

## Statement of Cherrah Ridge

My name is Cherrah Ridge and I am from the Thlikatchka (Broken Arrow Tribal Town) and of the Fuswv (Bird Clan) from the Muscogee (Creek) Nation located in Oklahoma. As a tribal citizen and a former elected tribal council member, I thank the Native American Caucus for sponsoring this briefing on the Violence Against Women Act and Safety for Native Women.

I speak today to help you to understand why the tribal amendments proposed in HR 4154 the Standard Against Violence and Empower Native Women Act are urgently needed to increase the safety of Native women and stop the epidemic of violence we experience as indigenous women.

My words are as a survivor of over 15 years of domestic violence and abuse. The violence perpetrated against me began when I was just a teenager in high school. From the early age of 15 the boy I dated abused me. At a time when I should have experienced the joys of high school and becoming a woman, I experienced violence from being hit, kicked, and punched. I endured humiliating acts from being spit upon, having my hair pulled, a knife pulled on me, cigarettes put out on



my face, to full beer cans thrown at my head. I went to high school with bruises and a black eye.

At the time, there were no tribal programs for teens and young women being abused as a result of teen dating violence. I became pregnant at 16 with this same boy and became a teen mom while having to endure the continued abuse. Again, there were no tribal dating violence services for teen pregnant women like me.

My teenage boyfriend became my husband and for more than a decade the hitting, kicking, punching, and humiliation continued. My abuse and abuser remained a part of my life as I transitioned from a teen to an adult woman. Domestic abuse and violence remained a constant as I went from a high school student, to a college and graduate student, and into my professional life as an elected tribal leader and social worker.

My abuse, like the abuse so many Native women endure, was not during one single point in my life but over a long period of time. For some, the violence is endured over a lifetime. Many Native women endure lifelong violence because they get to a place where there seems to be no way to break the cycle of abuse. The abuse becomes a part of everyday life.

What I experienced was a pattern of day-to-day incidents of physical and emotional abuse known as domestic violence. Many of these incidents are considered misdemeanors but I want to stress that the repeated acts of violence constituted a pattern of on-going terror in my life. When this abuse is committed by a non-Indian against a Native woman on tribal land, the tribal government has no jurisdiction to hold the abuser accountable. This is a problem and is unacceptable.

I was first elected to tribal council

when I was 24 in 2002. As an elected leader of my Nation I lived a very public life. I attended tribal council meetings, traveled for my Nation, and spoke at hundreds of public events. On numerous occasions, I conducted my professional duties with bruises on my body. I kept these bruises hidden by my clothing, as I feared a stigma of weakness from being a victim. I now understand that my abuser intended these attacks and visible marks on my body to be hidden. Blows to the head, hair pulling and spitting are just a few of the acts that do not leave visible marks.

It was not until my Nation launched a program for victims of domestic violence that I became more aware that I was a victim of domestic violence. Even as I became more aware, I did not leave my abuser because of my perceived stigma of victims being weak and the embarrassment of living with abuse. The fear of retaliation from trying to break loose from the cycle of abuse was another big factor of not leaving my abusive spouse.

On October 25th, 2008, I was beaten and choked. I remember this date because it was three hours before a tribal council meeting. I attended that council meeting with finger and handprints on my neck from being choked. At the council meeting I kept my head down with my hair pulled forward to try and keep the marks from being seen. It was after that meeting I had my moment of change and I realized it had to stop. I had to get out of this cycle of abuse.

Soon after I went to my tribal domestic violence program and sought help. I am so grateful that this program was available and that it existed. It helped me to stop the violence in my life, as I now knew the experience of seeking help.

Violence against women is not a traditional value for my tribe. It



has never been acceptable. Yet, domestic abuse and violence have diluted our sense of well-being and is counter to our traditional values and beliefs of community love and support. It was not until after I left my abuser that I felt comfortable speaking about it in public, and with family and friends.

I want to tell you that if tribal services geared towards domestic violence had not been available, I'm certain I would not be speaking here today. I'm certain I would have remained in the cycle of abuse with an attitude of "no way out" and accepting of a life of violence put upon me. My life is now in a better place, free of abuse thanks to the aid and assistance from these tribal services.

I also want to share with you the desperate need for rape crisis services. It is estimated 1 in 3 Native women will be raped in her lifetime. My Nation's health system





is in the process of establishing better protocols and strengthening the response needs to victims of sexual assault by establishing a Tribal Sexual Assault Nurse Examiner.

Today, many things in my life have changed for the better, but we have so much further to go in order to create tribal communities where Native women can live free of violence.

I survived the violence committed against me for over a decade. I have four beautiful children, two girls and two boys, and a fiancé who shares in my effort to prevent and abolish domestic violence. We work very hard raising my children to understand that domestic violence is not acceptable. Just a few weeks ago, I resigned as Second Speaker of my Tribal Council to work as the Director of Community and Human Services. My position oversees

eight tribal programs, which includes our Family Violence Prevention Program. This change allows me to work directly with our tribal community in the effort to eradicate domestic violence. I feel blessed and so fortunate for the opportunities at hand.

As a victim, I made excuses for my abuser. I think as elected official we cannot make excuses for abusers. We need to assume the responsibilities placed upon us and create laws that hold offenders accountable and remove the physical and mental burden from those being abused. This responsibility to end the violence against victims in the United States includes violence against Native women.

Congress also has the opportunity to accept the tribal amendments that will allow Indian tribes to provide the services that Native women desperately need. These services

can save the lives and stop the horrific physical and sexual violence being perpetrated against Native women on a daily basis.

The Violence Against Women Act in 1994 opened the doors for Native women. It recognized Tribal Nations as sovereign governments that must be able to protect Native women within their own tribal boundaries. Now almost two decades later, Congress again has the opportunity to open that door wider to remove the legal jurisdictional barriers hindering the safety of Native women.

Native women need their Tribal Government to be capable of protecting them from all abusers, not just those that are Native. Native women need tribal courts to have the authority to address, issue, and enforce orders of protection. Native women need the services as proposed under the Grants to Indian Tribes Program to access basic services to end the violence and save their lives and the lives of their children and family.

I urge you to vote for the tribal amendments contained in S. 1925 and House Bill 4154 introduced by Congressmen Kildee and my member of Congress Tom Cole.

Mvto (Thank you)!



# Special Rapporteur Visits the U.S.–

## Violence Against Native Women Shows Clear and Urgent Need for Law Reform

By JANA L. WALKER, STAFF ATTORNEY, INDIAN LAW RESOURCE CENTER

James Anaya, United Nations Special Rapporteur on the Rights of Indigenous Peoples (Special Rapporteur), recently conducted his first official mission to the United States to examine the situation of indigenous peoples. The Special Rapporteur traveled around the country April 23 through May 4, 2012, to gather information about the human rights concerns of indigenous peoples in the U.S. in light of the standards affirmed in the UN Declaration on the Rights of Indigenous Peoples. His itinerary included dialogues with tribal leaders, Native individuals, Native organizations, government officials, and others in Washington, D.C.; Tucson, Arizona; Anchorage and Dillingham, Alaska; Portland, Oregon; Rosebud, South Dakota; and Tulsa, Oklahoma.

The Special Rapporteur is an independent expert, appointed by the United Nations Human Rights Council, whose mandate is to address the concerns of indigenous peoples by examining, monitoring, and reporting on major issues regarding the human rights situations

in particular countries. Since being appointed to the post in 2008, Mr. Anaya has issued 15 reports on the human rights of indigenous peoples in 15 countries. These country reports also make recommendations for law reform in order to improve conditions for indigenous peoples.

In addition to issues such as lands and resources, self-governance, and social and economic conditions, the Special Rapporteur invited discussion on the rights and special concerns of indigenous women and children related to implementation of the Declaration. Many Native women's advocates and Indian leaders responded, testifying about violence against Native women and the need to restore safety to these women and strengthen the ability of Indian nations to address these crimes locally.

The Declaration, which is supported by the United States and reflects world consensus on the rights of indigenous peoples, is especially significant for Native women. It affirms the rights of Native women both as individuals and as members of indigenous communities, including rights to security of the person, gender equality, and access to justice. Article 2 of the Declaration reinforces nondiscrimination, declaring that indigenous peoples are “free and equal” to all others. Article 44 broadly recognizes the equal rights of Native women, including, but not limited to, rights to education and employment.

Article 22 explicitly calls for particular attention to be paid to the “rights and special needs” of indigenous women in the implementation of the Declaration. It directs countries



to “take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection . . . against all forms of violence and discrimination.”

Freedom from violence is one of the most basic human rights recognized under international law, but in the United States, violence against Native women has become a human rights crisis. The Indian Law Resource Center, NCAI Task Force on Violence Against Native Women, Clan Star, Inc., and National Indigenous Women's Resource Center jointly submitted a paper to inform the Special Rapporteur about the epidemic levels of violence against American Indian and Alaska Native women and girls in the U.S. The paper outlines how significant areas of U.S. law do not comport with standards of the Declaration, particularly those on protecting Native women and children from violence and ensuring nondiscrimination and equality under the law.

The United States has unilaterally limited the ability of Indian nations to protect Native women from violence and to provide them with meaningful remedies. The law places systemic jurisdictional restrictions on Indian nations, creating an unworkable, race-based system for administering justice in Native communities—a system that highlights this country's continuing failure to meet the







tribal providers, with input from tribal coalitions, for survivors of violence;

6. Creating a forum for dialogue, collaboration, and cooperation among tribal, federal, and state courts on the issue of violence against Native women on Indian lands and how the jurisdictional scheme under United States law unjustly discriminates against Native women contrary to the Declaration; and

standards of the Declaration. The Supreme Court has stripped tribes of criminal jurisdiction over non-Indians. This has an especially harmful impact, as the overwhelming majority—some 88% of Native women survivors—identify their offenders as being non-Indian. The Census Bureau also now reports that some 77% of all people living in American Indian areas (Indian reservations and/or off-reservation trust lands) and 68% of all people living in Alaska Native villages did not identify as American Indian or Alaska Native.

The paper also emphasizes the dismal record of investigation, prosecution, and punishment of these crimes by federal and state governments, which allows criminals to act with impunity in Indian country, threatens Native women daily, and perpetuates a cycle of violence in Native communities. In sum, Native women who are subjected to violence are being treated differently and discriminated against in the United States just because they were assaulted on an Indian reservation.

While acknowledging that the United States has taken some important steps towards addressing violence against Native women, the paper calls for the United States to do much, much more to improve this crisis through measures, including:

1. Restoring the authority of Indian

nations to prosecute non-Indians committing crimes in Indian country, particularly violent and sexual crimes against Native women, and clarifying that every tribe has full civil jurisdiction to issue and enforce protection orders involving all persons, Indian and non-Indian alike;

2. Increasing federal technical, financial, and other support to Indian nations who wish to exercise restored criminal jurisdiction over non-Indians to enhance their response to violence against Native women, including support for tribes sharing concurrent state criminal jurisdiction under PL 280;

3. Bringing federal assault statutes into parity with state laws governing violence against women, especially with respect to severe acts of violence resulting in substantial bodily injury and involving strangling, suffocating, and assaulting a spouse, intimate partner, or dating partner;

4. Fully funding and implementing the Tribal Law and Order Act, particularly in respect to the exercise of enhanced sentencing authority by Indian nations; the obligation of federal prosecutors to share information on declinations of Indian country cases; and the provision of training for and cooperation among tribal, state, and federal agencies;

5. Providing support and sufficient funding streams for culturally appropriate services designed by

7. Launching a national initiative, in consultation with Indian nations, to examine and implement reforms to increase the safety of Native women living within PL 280 states, including responses to requests by Indian nations for the United States to reassume federal criminal jurisdiction and for technical and financial support.

In his concluding remarks on May 4, 2012, Special Rapporteur Anaya stated:

*“During my visit, I heard almost universal calls from indigenous nations and tribes across the country that the Government respect tribal sovereignty, that indigenous peoples’ ability to control their own affairs be strengthened, and that the many existing barriers to the effective exercise of self-determination be removed. It should be noted that the Violence Against Women Act, which is currently pending reauthorization before Congress, contains important provisions recognizing the jurisdiction of tribes to prosecute perpetrators of violence against Indian women and to hold them accountable for their crimes, which is a good step in the right direction to addressing this distressing problem.” After hearing from victims of domestic violence, Anaya stated that “once one sits down and directly hears these stories, it’s very powerful and it really does inform the way I look at this issue.”*



The Special Rapporteur will prepare a preliminary report of his assessment, which will be submitted to the United States for comments and consideration, and then issue

a final report to UN Human Rights Council. Mr. Anaya's report will include recommendations to the United States on how to address issues of concern to indigenous

peoples, which should also include recommendations to the U.S. on ending violence against Native American women.



# CHOOSE RESPECT

ALASKANS ENDING THE EPIDEMIC OF DOMESTIC VIOLENCE AND SEXUAL ASSAULT

## Alaska Delegation Chooses Respect at Capitol Hill Rally

Senator Lisa Murkowski joined with Senator Mark Begich and Representative Don Young today in a show of support for Governor Parnell's "Choose Respect" initiative. The delegation participated in a rally at the U.S. Capitol, to stand together with all Alaskans to march against the plague of domestic violence and sexual assault that harms Alaska.

"We stand together with Governor Parnell as a nationwide network of Alaskan communities calling attention to the problem of sexual assaults and domestic violence," said Senator Murkowski. "Alaskans know that our state has unparalleled beauty, but it also has rates of violence that are simply unacceptable. I call out to everyone and ask every Alaskan to do what they can to change our reality. Whether you're leading your family and community by respectful examples or boldly stepping forward to tell your own story, the time has come for all Alaskans to Choose Respect today and every day."

"As we work to strengthen laws against domestic violence and work to support more funding for shelters, education and prevention, I am pleased to take part in the Choose Respect rally to help shine a spotlight on this issue," said Senator Begich. "As Alaskans stand together today, both in the state and in DC, our goal is to keep our families safe and to one day NOT have the distinction of having some of the highest rates of abuse in the country."

"I am proud to once again join with Alaskans across the state in showing our support for the Choose Respect initiative," said Representative Young. "The statistics speak for themselves – Alaska's levels of domestic violence and sexual assault are intolerably high. Under no circumstances is domestic violence or sexual assault acceptable and it is my hope that by Choosing Respect, Alaskans will unite, stand together and put an end to the violence. I want to extend my thanks and appreciation to the Governor for his leadership on this and for bringing this important issue to the forefront."

Nearly one in two Alaska women have experienced partner violence and close to one in three have experienced sexual violence. Overall, nearly six in ten Alaska women have been victims of sexual assault or domestic violence.



# National Indigenous Women's Resource Center Regional Updates

## NIWRC's Regional Work Organizing for Change

To maximize NIWRC's impact and ensure that our resources address the specific challenges and strengths of Native women's advocates, coalitions, and Tribes across the country, we divided the country up into 9 regions with our current 3 Program Specialists each working with 3 regions. In this way, NIWRC strives to encourage and support the Tribal grassroots movement to increase the safety of Native women and their children and effect real change in Tribal communities and in women's and children's lives. We have activities going on throughout the 9 regions at any one time, and following are highlights from two regions.

### Regions 1, 5 & 9 – Paula Julian

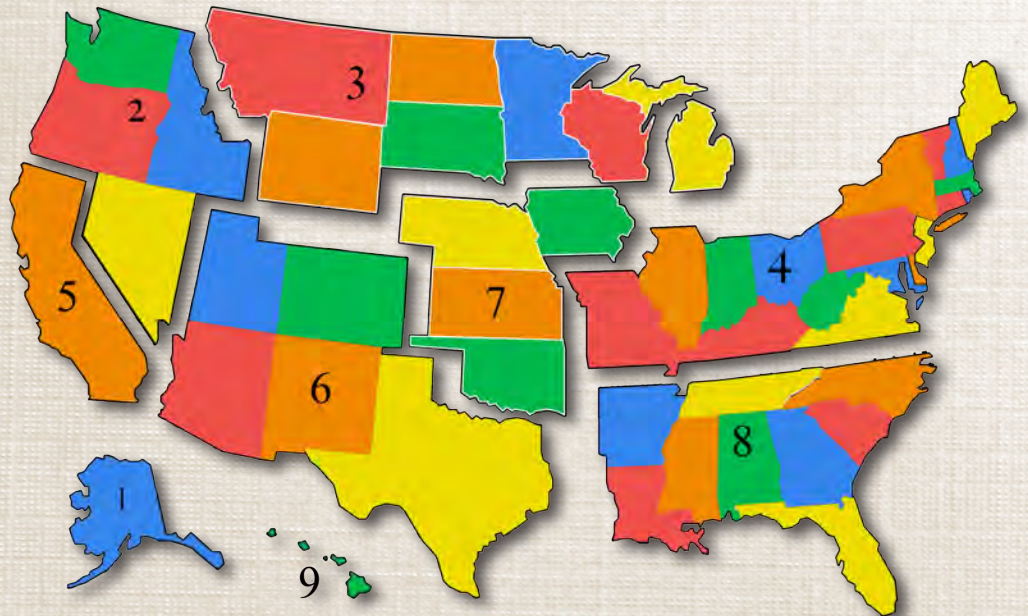
Region 1 – Alaska, Region 5 – California, and Region 9 – Hawaii.

### Regions 2, 3 & 6 – Dorna Sahneyah

Region 2 – (Northwest) Washington, Oregon, Idaho, & Nevada; Region 3 – (Great Plains) Michigan, Minnesota, Montana, North Dakota, South Dakota, Wisconsin, & Wyoming; and Region 6 – (Southwest) Texas, New Mexico, Arizona, Colorado, & Utah.

### Regions 4, 7 & 8 – Gwen Packard

Region 4 – (Northeast) Connecticut, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode



Island, Vermont, Virginia, & West Virginia; Region 7 – Oklahoma, Kansas, Iowa, & Nebraska; and Region 8 – (Southeast) Alabama, Arkansas, Florida,

Georgia, Louisiana, Mississippi, North Carolina, South Carolina, & Tennessee.

## Region 1 (Alaska) Update – Paula Julian, Program Specialist

Reminiscent of the early days of the violence against women grassroots movement, when advocates (many of whom were volunteers and sisters/relatives) potlucked in each other's homes around the kitchen table and came together for critical discussions and action planning, we conducted our NIWRC Alaska Regional Meeting/ Training. Lynn Hootch, Yup'ik Women's Coalition (YWC) Director, and Paula Julian, NIWRC Program Specialist, co-facilitated a combined NIWRC and YWC Regional Meeting April 11-12, 2012, the first day of which we shared and listened to each other's experiences, frustrations, tears and laughs. Discussion was centered around the theme: Increasing the Safety of Alaska Native Women: Building Unity Through Action.

We designed this regional meeting as a meaningful opportunity to regroup and refocus long time Native women's advocates and accomplish the following: 1) provide a national policy update on VAWA 2012 and

connection to social change work in Alaska Native Villages; 2) review Native women's efforts to enhance the safety of women throughout Alaska Native Villages across the state; 3) discuss dangers, barriers, responses and solutions specific to the strengths and realities of Villages; and 4) begin planning for coalition and movement building to enhance women's safety in the Villages. To do this, we started by identifying challenges, strengths and solutions for protecting Alaska Native women.

Challenges identified by participants include, but are not limited to, the following: lack of understanding of sovereignty and Native cultures by non-Native shelters and the state, including troopers and Office of Children's Services; lack of law enforcement in Villages; rules, policies, and services of non-Native shelters that do not help Native women and respond to their realities, including shelter stay time limits and no or limited



services for women with multiple disabilities or prostituted women; disruption of Village life ways leading to a state of crisis for many, if not all Villages, including children removed and taken into state custody from witnessing domestic violence; women mistakenly charged with domestic violence; limited or no Village access to state or Federal funding; meaningful coordination that is culturally relevant of response to sexual assault of women in the Villages; lack of domestic violence and sexual assault protocols with health clinics; imposition of a cash economy and high cost of living in the Villages forcing many to move to the cities away from their families and Village life ways and subsistence economy; and funders not understanding the connection of issues (i.e., high rates of violence against women, suicide, alcohol and substance abuse, and disease) and supporting a Village specific self-determined response.

Participants identified strengths and solutions that included the following: the hopefulness in solutions grounded in Yup'ik and other Alaska Native cultures and languages; honoring our mothers, such as Village elder Dorothy Kameroff, first Yup'ik woman Magistrate for the Village of Emmonak and founder of the Emmonak Women's Shelter in 1979; strategically working together and helping each other to change thoughts and behaviors; speaking collectively on issues, needs and

strengths specific to Alaska Native Villages increasing women's safety to leverage meaningful change; identifying tools and activities to promote healing and a stronger network of Alaska Native advocates and their allies since the work can be isolating, challenging and rewarding as well; turning words into action; developing a curriculum on the Alaska Native Settlement Claims Act; engaging and encouraging participation of Native elders, youth, men, and Village leadership to provide meaningful opportunities for their leadership; developing collaborative relationship with AFN, including meeting this October at AFN's Annual Convention; working for a First Ladies exchange between Alaska Native Village First Ladies and First Lady Michelle Obama. Next steps include conference calls with meeting participants to follow up on action items and continue developing a short and long-term plan.

What we walked away with from our 2 day meeting was how NIWRC and allies to Alaska Native women and Villages can support and connect with their grassroots movement building that is reflective of and relevant to their specific histories, realities, and customs and traditions. Qu yana (Yup'ik for thank you) to Debbie Turner and the Alaska Native Tribal Health Consortium for sharing their meeting room for our second day.

## **Region 6 (Utah, Arizona, Colorado, New Mexico, Texas) Update - Dorma Sahneyah, Program Specialist**

On April 25, 2012, over two hundred-sixty people gathered in the Township of Kayenta on the Navajo Reservation to participate in Tohdenasshai Shelter Home's Second Annual Sexual Assault Awareness "It's Time... To Talk About It" event. Immediately following the walk, participants enjoyed a meal and words from various guest speaker, Dorma Sahneyah, NIWRC Program Specialist, and speakers representing DNA People's Legal Services and various Navajo County officials, including, Sheriff's Office, Board of Supervisors District 1, County Attorney's Office, and County Superior Court.

The Navajo Nation spreads over three states (Utah, New Mexico, Arizona), and its size (population and land base) and remote location present unique challenges for women experiencing violence to access safety, justice and meaningful services. Nevertheless, Tohdenasshai Shelter Home advocates organized the event to bring together first responders, tribal leaders, community members, and advocates to acknowledge that rape and sexual assault is happening and to jump start discussions in order to have a common understanding

of issues and approaches related to ending violence against Dine' women.

The following day, Dorma Sahneyah, NIWRC Program Specialist, presented on the Tribal Law and Order Act (TLOA) and Violence Against Women Reauthorization Act to members of the Navajo Nation Advisory Council Against Domestic Violence and Kayenta Community Collaboration Team. The group expressed concerns with lack of resources to meet the TLOA mandates and need for training on areas such as evidenced-based interventions, an area increasingly referenced in funding awards. It was also mentioned that not all programs have Internet access, a requirement for participation in webinar training sessions. The group shared a delicious meal and Ms. Sahneyah left to visit the nearby scenic area of Monument Valley. During the drive, the great distances of many homes from help when domestic and sexual violence may happen presented a glaring reality. On behalf of NIWRC, Ms. Sahneyah will begin in a couple months to work with the Family Violence Prevention and Services Tribal Program to address issues specific to the Navajo Nation.



# Upcoming Training and Webinar Schedule

## REGIONAL TRAININGS

Through October 2013 NIWRC will host five trainings in different regions of the country to provide information that is relevant and responsive to the specific needs of each region. Prior to these regional trainings, NIWRC staff will work closely with the Board member from that region to ensure the training, information, education and awareness materials are culturally and legally appropriate to the needs of the tribes in that region.

July 18-20, 2012 - Region 7  
“Strengthening Advocacy: Meeting the Needs of Indian Women and Their Children” in Tulsa, Oklahoma  
More info - <http://t.co/Uv6VN950>

August 8-10, 2012 - Region 4  
“Honoring Mother Earth: Healing Ourselves, Healing Our Communities” in Syracuse, New York  
More info - <http://t.co/yJZczHFT>

October 2012 - Region 6  
Arizona

## NATIVE WOMEN’S LEADERSHIP

NIWRC prioritizes Native Women’s Leadership development and mentoring. This training will focus on grass roots organizing and coalition building to participate in local, regional and national movements addressing violence against Native women. This session will take place in conjunction with the NCAI Mid-Year Conference to take advantage of the tribal leadership that will be in attendance and the opportunity for participants to actively engage in policy development.

June 17 – 19, 2012  
NIWRC Native Women’s Leadership Working Group, in conjunction with NCAI Mid-Year Conference in Lincoln, NE  
More info - <http://t.co/pMRtG76m>

## NCAI TASK FORCE MEETINGS

June 17, 2012  
NCAI Mid-Year, Lincoln, NE  
(NCAI Conference is June 17-20, 2012)

October 21, 2012 - NCAI Annual Convention, Sacramento, CA  
(NCAI Annual Convention is October 21-26, 2012)

## INFORMATION NETWORKING

The NIWRC responds to national tribal and non-tribal requests for information and/or awareness training at various conferences and trainings organized by other entities regarding violence against Native women.

August 21-24, 2012  
Women Empowering Women for Indian Nations’ 8th Annual Conference, Mystic Casino Hotel, Prior Lake, MN  
More info - <http://www.wewin04.org>

## WEBINARS

June 20, 2012  
Criminal Jurisdiction in PL-280 Jurisdictions, Alaska and Land Claims Settlement States. This webinar will focus specifically on the special jurisdictional rules, and challenges, that apply in Alaska and other PL-280 jurisdictions, as well as in Land Claims Settlement States, such as Maine.

July 11, 2012  
How DV Impacts Children  
Studies show that children who live in homes where their mother has been abused are more likely to experience learning disabilities, behavior problems, drug and alcohol abuse, or even repeat abusive behavior as adults. This webinar will focus on how domestic violence impacts children and how we can offer support to them.

August 8, 2012  
Working with Women who are Victims of DV and Substance Abuse

September 12, 2012  
DV/SA Shelters In Indian Country: What’s Working and What’s Not, An Interactive Opportunity For Sharing Among All Participants

**Please visit our website ([niwrc.org](http://niwrc.org)) for a detailed description on any of these training opportunities, to register for a webinar, or to learn about other training opportunities.**

**Digital Copies Available:**





# Violence Against Women Act 2012 REAUTHORIZATION CONTACTS



National Task Force  
to End Sexual and  
Domestic Violence Against Women

## DEFINITIONS AND GRANT CONDITIONS

Rebecca Henry, American Bar Association Commission on Domestic Violence  
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## COMMUNITIES OF COLOR / US TERRITORIES

Luz Marquez, National Organization of Sisters of Color Ending Sexual Assault (marquez@sisterslead.org)  
Condencia Brade, National Organization of Sisters of Color Ending Sexual Assault (brade@sisterslead.org)

## UNDERSERVED

Tonya Lovelace, Women of Color Network  
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## ADVOCACY CORPS

Juley Fulcher, Break the Cycle  
(jfulcher@breakthecycle.org)  
Paulette Sullivan Moore, National Network to End Domestic Violence (psmoore@nnev.org)

## SEXUAL ASSAULT

Terri Poore, National Alliance to End Sexual Assault  
(tpoore@fcasv.org)

## TITLE I – ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE AGAINST WOMEN

Rob Valente (robvalente@dvpolicy.com)  
Terri Poore, National Alliance to End Sexual Assault  
(tpoore@fcasv.org)

## TITLE II – IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Rob Valente (robvalente@dvpolicy.com)  
Terri Poore, National Alliance to End Sexual Assault  
(tpoore@fcasv.org)

## TITLE III – SERVICES AND PREVENTION FOR YOUNGER VICTIMS OF VIOLENCE

Juley Fulcher, Break the Cycle  
(jfulcher@breakthecycle.org)  
Kiersten Stewart, Futures Without Violence, formerly Family Violence Prevention Fund  
(kstewart@futureswithoutviolence.org)  
Monika Johnson Hostler, National Alliance to End Sexual Assault (monika@nccasa.org)

## TITLE IV – MILITARY

Debby Tucker, National Center on Domestic and Sexual Violence (dtucker@ncdsv.org)  
Monika Johnson Hostler, National Alliance to End Sexual Assault (monika@nccasa.org)

## TITLE V – STRENGTHENING THE HEALTHCARE SYSTEM'S RESPONSE TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Kiersten Stewart, Futures Without Violence, formerly Family Violence Prevention Fund  
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Sally Schaeffer, Futures Without Violence, formerly Family Violence Prevention Fund  
(sschaeffer@futureswithoutviolence.org)  
Diane Moyer, Pennsylvania Coalition Against Rape  
(dmoyer@pacar.org)

## TITLE VI – HOUSING OPPORTUNITIES AND SAFETY FOR BATTERED WOMEN AND CHILDREN

Monica McLaughlin, National Network to End Domestic Violence (mmclaughlin@nnev.org)

## TITLE VII – PROVIDING ECONOMIC SECURITY FOR VICTIMS OF VIOLENCE

Lisalyn Jacobs, Legal Momentum  
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## TITLE VIII – PROTECTION OF BATTERED AND TRAFFICKED IMMIGRANTS

Lesley Orloff, Legal Momentum  
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## TITLE IX – SAFETY FOR INDIAN WOMEN

Jax Agtuca, National Congress of American Indians Task Force (Jax.safety@me.com)  
Katy Jackman, National Congress of American Indians  
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Dorma Sahneyah, National Indigenous Women's Resource Center (dsahneyah@niwrc.org)  
Lucy Simpson, National Indigenous Women's Resource Center (lsimpson@niwrc.org)

*You can also access current descriptions of each program in the FY 11 Appropriations Briefing Book by going online at <http://www.nnev.org/docs/Policy/fy11briefingbook.pdf>*



# Lessons of the NCAI Task Force on Violence Against Women

The lessons of the NCAI Task Force are numerous and have increased significance to Indian Nations in the world in which we co-exist as sovereigns and indigenous peoples. Since 2003 many lessons exist but the following stand out as principles to guide future organizing efforts to increase the safety of Native women.

**American Indian and Alaska Native:** Recognition of the unique relationship of and distinction between American Indian tribes and Alaska Native Villages. This emphasis is of critical importance to the defense of sovereignty in the lower forty-eight United States as well as that of 227 federally recognized Indian tribes in Alaska.

**Addressing Public Law 53-280:** In 1953, during the termination era, Congress enacted what is known as PL 280. This Act transferred Federal criminal justice authority to particular state governments. The Department of Interior, as a policy interpretation, denied access to Indian tribes located within those states to Federal funds to develop their respective tribal justice systems. Often when a woman is raped within an Indian tribe located within a PL 280 state no criminal justice agency may be available to assist her. As a result the perpetrator is free to continue committing horrific violence against the same or different woman. Efforts of the Task Force have included addressing safety for women living within both a federal-tribal and state-tribal concurrent jurisdiction.

**Balancing Western and Indigenous Justice Approaches:** The strategic goal of the NCAI Task Force is to increase safety and restore the sacred status of American Indian and Alaska Native women. A dual approach to achieving this goal exists. One approach is to reform the western justice systems response to crimes of violence against Indian women. The other approach is to strengthen the tribal beliefs and practices that operate as protectors of women within tribal nations.

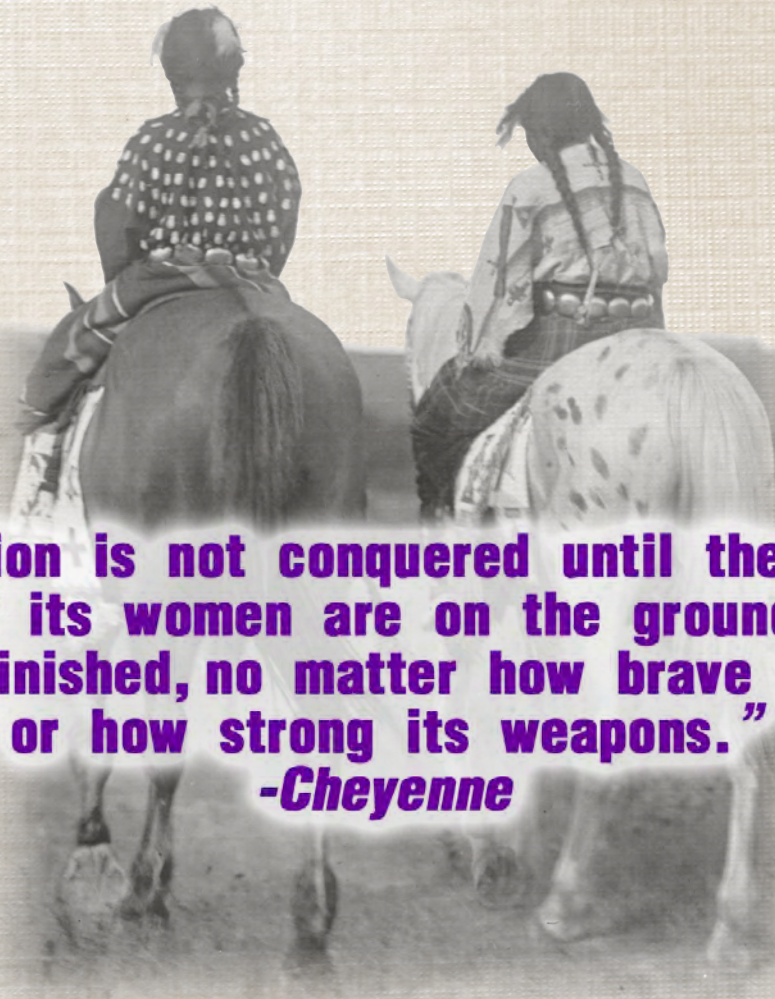
**Broad Communication:** Since the creation of the NCAI Task Force it has regularly published *Sovereignty & Safety* magazine to inform and share with tribal leadership, advocates, and tribal communities emerging issues impacting the safety of Native women. The magazine serves as an information bridge for the thousands of tribal leaders and community members to understand and participate in the movement to increase the safety of Indian women.



“The NCAI Task Force represents the maturation of a grassroots movement across American Indian and Alaska Native communities to increase the safety of Native women.”

Juana Majel, 1<sup>st</sup> Vice-President, NCAI.





**“A Nation is not conquered until the hearts  
of its women are on the ground.  
Then it is finished, no matter how brave its warriors  
or how strong its weapons.”**  
***-Cheyenne***