

# Restoration

OF NATIVE SOVEREIGNTY AND SAFETY FOR NATIVE WOMEN



FEBRUARY 2018



National Indigenous Women's Resource Center  
VOLUME 15 ISSUE 1

Hollywood takes on the subject of Missing and Murdered Indigenous Women and Girls

# Restoration

OF NATIVE SOVEREIGNTY AND SAFETY FOR NATIVE WOMEN

SUBSCRIPTIONS NOW AVAILABLE AT [RESTORATION.NIWRC.ORG](http://RESTORATION.NIWRC.ORG)

Dear Friends,

We, the National Indigenous Women's Resource Center, are calling upon the national movement to increase safety for Native women to join us in rallying the grassroots movement to educate Congress of the crisis of missing and murdered Native women and girls. This crisis is linked to the vulnerability of Native women created by legal barriers placed on Indian tribes and the denial of resources to maintain safe communities. Congress needs to take the necessary steps to address this crisis by passage of the SURVIVE Act and the Savanna's Act. In 2017, over 100 organizations joined with NIWRC in signing a letter to support a Senate resolution declaring May 5, 2017, a National Day of Awareness for Missing and Murdered Native Women.

We must again create a groundswell to move Congress beyond "concern" for this brutality to "action" by declaring May 5, 2018, a National Day of Awareness. We encourage everyone to launch planning efforts for May 5th activities to go beyond our 2017 activities. This *Restoration* provides articles and insights on violence against Native women to assist in these tribal and national organizing effort.

As we turn our grief to action, the NIWRC is tremendously grateful that Taylor Sheridan, writer and director of the feature film *Wind River*, and Acacia Filmed Entertainment (an entity of the Tunica-Biloxi Tribe of Louisiana) have directed future distribution royalties of the film to the NIWRC. In response to the rape and sexual harassment reports against the former film studio executive Harvey Weinstein, Taylor Sheridan and Acacia Filmed Entertainment severed all ties between the film and The Weinstein Company, the previous distributor of *Wind River* (see <http://bit.ly/2gRTLrt>). This incredible donation secures the ongoing work of NIWRC to address violence against Native women.

*Wind River* is raising national awareness of missing and murdered indigenous women and girls (MMIWG) while also touching on the jurisdictional complexities present on Indian reservations when seeking justice for Native victims of violence. On February 12, 2018, at 6:00 P.M., NIWRC is honored to host with our national partners a screening of *Wind River* for members of Congress, their staff, and the public at the Congressional Auditorium on Capitol Hill.

There is so much work to be done in the coming months. For our Native sisters who are missing and murdered, we need every person to take a stand and join our effort calling for justice to end this epidemic of human brutality.



Lucy Simpson  
Executive Director  
NIWRC



Cherrah Giles  
Board Chair  
NIWRC



**Cover:** Nicole Sheridan and Taylor Sheridan at the November 2nd, 2017 NIWRC Fundraiser & Honoring at the Montana Club in Helena, MT. NIWRC presented Nicole with a star quilt and Taylor with a sweet grass braid at the event honoring them, along with the Tunica-Biloxi Tribe of Louisiana and the tribe's Economic Development Corporation the Acacia Filmed Entertainment, as philanthropists. The National Indigenous Women's Resource Center will receive future distribution royalties from the feature film "Wind River." Read more at <http://bit.ly/2z6yZIL>.

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### Instructions on how to use the QR codes in this magazine

1. Using your smartphone, go to Google Play (for Androids) or App Store (for iPhones).
2. Search for the **QR Bot** app. Download and open on your phone.
3. The QR Bot app will use the camera on your phone to scan the code at right.
4. Open the website link it takes you to!

# NIWRC's 2018 Women Are Sacred Conference

## "Resilience: Walking in Ancestral Footprints, Carrying Our Medicine"

This year's theme "Resilience: Walking in Ancestral Footprints, Carrying Our Medicine" is about who we are as Indigenous peoples and our journey - where we came from and where we are going. It speaks to the many different directions and cultures we come from, what was taken from us, what was lost along the way. We survived, calling upon the cultural strength, resilience and Indigenous knowledge we carry with us into the future: our medicine. It speaks to the deep cultural roots we come from and the deep roots we need in our movement to lead in social change in ending the violence across all relations. With deep roots, we cannot be washed away. Let us all walk together on this journey!

## Women Are Sacred Conference 2018 June 26-28 Albuquerque, NM

Hotel Albuquerque

Room Block Dates : June 25-27, 2018

Room Block Deadline: May 30, 2018

Room Rate is \$93.00+tax

Group Code: Women are Sacred Conference  
or 1806WOMEN

Reservation Office: 866-505-7829

Book on line; <http://bit.ly/2CBYQ5z>

### OVW and FVPSA approved

(Watch for our online registration)

Women Are Sacred Conference Attendance and Travel with OVW Funds

As authorized by Sherriann Moore, Deputy Director for Tribal Affairs, Office on Violence Against Women, OVW is not requiring a Grant Adjustment Notice (GAN) to be approved by your OVW grant program manager for the WAS conference which will be held June 25-27, 2018 at the Albuquerque Hotel in Albuquerque, NM.

OVW Tribal Coalitions Program, you do not need to submit a GAN for up to TWO people to be able to attend.

OVW Tribal Governments Program, you do not need to submit a GAN for up to THREE people to be able to attend.

OVW Tribal Sexual Assault Program, you do not need to submit a GAN for up to TWO people to be able to attend.

OVW Tribal Jurisdiction Program, you do not need to submit a GAN for up to TWO people to be able to attend.



The National Indigenous Women's Resource Center (NIWRC) is pleased to announce that we will be hosting the Women Are Sacred (WAS) Conference at the beautiful Hotel Albuquerque on June 26-28, 2018. Mark your calendars and watch our website for more details, including registration and agenda.

### Resilience: Walking in Ancestral Footprints, Carrying Our Medicine"

This year's theme "Resilience: Walking in Ancestral Footprints, Carrying Our Medicine" is who we are as Indigenous peoples and our journey—where we came from and where we are going. It speaks to the many different directions and cultures we come from, what was taken from us, what was lost along the way. We survived calling upon the cultural strength, resilience and Indigenous knowledge we carry with us into the future: our medicine. It speaks to the deep cultural roots we come from and the deep roots we need in our movement to lead in social change in ending the violence across all relations. With deep roots, we cannot be washed away. Let us all walk together on this journey!

The Women Are Sacred Conference is one of the oldest and largest gatherings of advocates, survivors, tribal domestic and sexual violence programs, tribal community members,

tribal leadership, law enforcement and tribal court personnel dedicated to ending violence against American Indian and Alaska Native women and children. WAS offers state of the art training opportunities designed to increase the capacity of tribal nations, tribal domestic violence and community-based programs to address violence in tribal communities. Conference presenters include emerging Indigenous leaders and experts in the movement to ending violence.

As authorized by Sherriann Moore, Deputy Director for Tribal Affairs, Office on Violence Against Women, OVW is not requiring a Grant Adjustment Notice (GAN) to be approved by your OVW grant program manager for the WAS which will be held June 26-28, 2018 at Hotel Albuquerque. OVW Tribal Coalitions Program, you do not need to submit a GAN for up to TWO people to be able to attend.

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# Editor's Note

## #MMIWG--Organizing to END the Crisis

"We are grieving the losses of so many," said Mike Williams, Vice Chairman, Akiak Native Community. "When will it stop?" Families, communities, the media, elected leaders, and so many others ask, "Why is this happening?" And while each case has specific reasons as a movement, we are challenged to look deeper, to connect these cases—understand the legal infrastructure underlying this crisis and recommend the changes needed.

The "it happens in all communities not just to Native women" is unacceptable. While true, it denies the layers of federal law that prevent Indian tribes from maintaining safe communities and protecting women and girls from predators. It denies the reality that resources are not appropriated for Indian tribes to provide justice systems and respond to these crimes. These restrictions on tribal authority and denial of resources are the pillars beneath the current crisis of MMIWG. This multi-dimensional crisis is clearly linked to federal Indian law and policy.

The current system fails to respond to the disappearance and murder of Native women and girls because it was designed at a time when the goal of the United States was the termination of Indian tribes. The system is "not broken," it never worked. It was not designed to protect Native women and girls. Native lives are dependent on a system where often the immediate response to a disappearance or murder is not action but questions—*which law enforcement agency has jurisdiction to take the report, respond, conduct the search, investigate, prosecute?* Even more telling of the system's failure is the no-response mode.

### Organizing to Remove the Legal Barriers to Safety

The creation of the VAWA Tribal Title in 2005 and the return of jurisdiction to Indian tribes over non-Indian perpetrators were political victories resulting from the movement organizing a groundswell demanding change. Now is the time for the movement to come



Jacqueline "Jax" Agtuca,  
Editor, *Restoration*



together to partner with those leaders in Congress calling for change. Every member of Congress should support the Savanna Act, the SURVIVE Act, and the declaration of May 5, 2018, as the National Day of Awareness for Missing and Murdered Native Women. Moral outrage to these cases while appropriate does little to create the changes needed to stop this violence. Concern alone is unacceptable. Organizing across Indian nations is the way to win these legislative victories and begin to remove the barriers to the safety of Native women.

Wind River brings to the public spotlight the harsh reality and heartbreak of the issues of missing and murdered Native women and girls. We thank Taylor Sheridan, the film's writer and director, and Acacia Filmed Entertainment, an entity of the Tunica-Biloxi Indian Tribe, for this amazing contribution. Wind River opens the door for our movement to educate across Indian tribes and nationally by answering the questions posed by the film. Wind River is an organizing tool provided to the movement at a time when VAWA is due to be reauthorized. It is an opportunity we must fully maximize.

### May 5, 2018, National Day of Awareness for Missing and Murdered Native Women and Girls

In 2017, the online impression for the #MMIWG reached over 8 billion nationally and internationally. As planning for May 5, 2018, is launched in your community, add a showing of Wind River to the planning for justice walks, vigils, and public awareness activities. Let us go beyond 2017 and send a message that in 2018 we call upon all members of Congress to Wear Red, to stand for justice and safety, by passing the Savanna's Act and SURVIVE Act.

# NATIVE *Love*: Announces This Year's Winner During Native Heritage Month 2017!



**Congratulations!**

**Tanae Le Claire,  
Yankton Sioux**

The 2017 NativeLove Youth Challenge Project received many diverse entries from tribes and tribal communities across the lower 48 and villages in Alaska. The NativeLove Challenge is both a digital media campaign and an art therapy-based activity offered during our trainings, workshops, assemblies, on-sites, and awareness events. This year, youth participated from remote villages in Alaska, in metropolitan cities, from tribal schools, at information and activity booths during both traditional and contest powwows, at community walks, and at awareness events and included entries from students as young as preschool up to college-age. We were given useful and important feedback from youth regarding bullying and the pacts of this intersection of bullying and dating relationships. We heard about youth centered-barriers of perceptions of consent, and disclosures about lookism, faith, and cultural abuse as a vehicle to perpetuate domestic violence. This year, we heard NativeLove means things like #NativeLoves: "Family," "Culture," "Respect," "Traditions," "Elders," "Being proud to be indigenous," and "NativeLove is an action word."

NativeLove, a project by the National Indigenous Women's Resource Center, intends to develop tools and resources and use these important youth voices to inform how we can improve youth-centered advocacy and support adults in faith leadership, schools, and sports to prepare youth for a healthy future. Youth are the future, they are generation makers, and we have a lot to learn from them. The philosophy of NativeLove is to speak WITH youth, not AT youth. We change the concept of who is the "teacher" and who is the "student." Also, one of the most important approaches is leading by example by promoting collaboration instead of doing anti-violence work in silos.





**This year, our gifted theme from youth has been "Together" or "Unity."**

We are so excited for our 2017 NativeLove Challenge Winner Tanae Le Claire, daughter of Candace Le Claire. Tanae is a senior at Haskell University, this year's Haskell Homecoming Queen, and represents the Gamma Delta Pi sorority. To her, NativeLove means "Unity" and we couldn't agree more. When we treat each other with respect and value each other, we have the beginnings of ending violence in our communities and promoting unity is how we can accomplish those goals. Tanae has thought a lot about her future plans. She wants to work for Native people. She believes,

*... by continuing my education and achieving a master's degree in social work, I know I can focus on my passion to help indigenous people in urban areas. My goal is to professionally, and with my experience and passion, help those who need support adjusting and transitioning from reservation life to urban areas ...*

Candace Le Claire says of her daughter, "Tanae is very deserving of this trip for the NativeLove Challenge prize. She is a beautiful, young woman who respects her culture and heritage. Although Tanae has faced adversity throughout her life, she has overcome it to become a college graduate and is striving towards even bigger and better things. I know that one day she will be able to apply all that she has achieved to help our people.

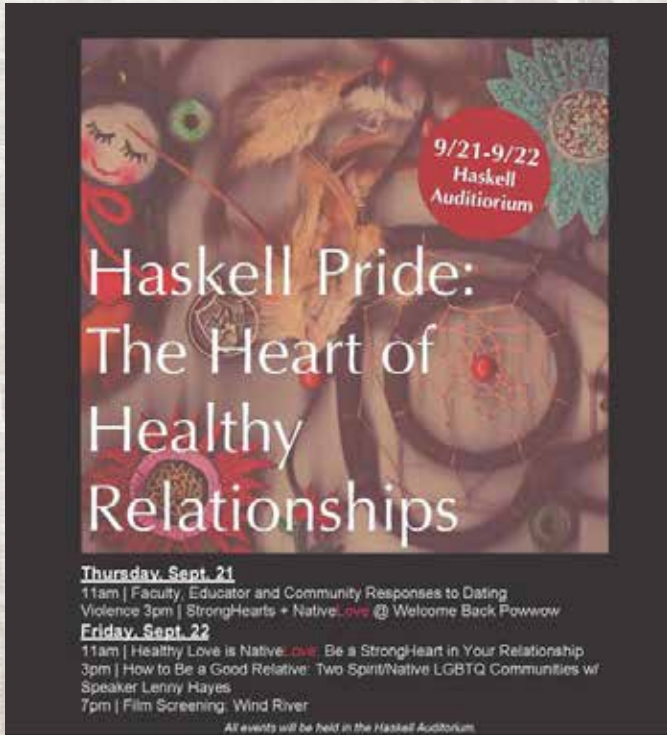
Pilamaya (Thank you)

Mitakuye Oyasin (We Are All Related)

We are so excited to introduce Tanae and have amazing things in early planning for her upcoming year cultivating NativeLove at Haskell University. She is beginning to plan her prize, a paid trip for two to a Native event of her choosing this year. After all, #NativeLove is lifting and celebrating our youth; they will change the world.

# NATIVE *Love* Visits Haskell Indian Nations University for Haskell Pride: The Heart of Healthy Relationships

Rebecca Balog, Princella RedCorn, & Rose Quilt



Haskell events to hear from the community, educate students, and conduct informational presentations about dating violence, Two-Spirit/Native LGBTQ issues concerning bullying and violence, and defining healthy relationships.

NativeLove invited Lenny Hayes of Tate Topa Consulting, Inc. to lead the discussion about the importance of support for our Two-Spirit and Native LGBTQ community members at Haskell. Lenny discussed the impact of bullying among communities and talked about supporting healthy relationships with Two-Spirit/Native LGBTQ students including the critical importance of healing.

After our visit, an article titled "Domestic Violence Is NOT Our Tradition," written by Sean Parrish, was published in the *Indian Leader*, the oldest Native American newspaper printed at Haskell University. This article included student perspectives of the NativeLove discussions. Bry Smiley (Diné), a Haskell senior majoring in Indigenous and American Indian Studies, shared his thoughts about the "NativeLove Two-Spirit/LBGQT Communities" presentation facilitated by Lenny Hayes:

*"It really opened up a new perspective of different forms of bullying that I have heard about, seen, and experienced. I want to bring awareness to the campus about the Two-Spirit community by utilizing my own voice to be a leader for the Two-Spirit Natives here on campus. The Two-Spirit community, which is prevalent, has a lack of representation here on campus. It's, in a sense, ignored and stored away for students, such as myself. I notice the flaws and now it's time to take those flaws and change it into something that will perhaps blossom or perhaps plant a seed for future students to know about the Two-Spirit community here on campus."*



Haskell Indian Nations University, Lawrence, Kansas—NativeLove and the StrongHearts Native Helpline were invited by Haskell faculty member Elyse Towe to initiate conversations with faculty and students about the NativeLove Project. The NativeLove visit included Haskell faculty, community elders, professors, and local direct service non-Native domestic violence and sexual assault advocates in the area to have conversations about the critical importance of including Haskell's student voices in discussions about positive dating relationships, domestic violence, sexual assault, stalking, and other forms of violence. September was an important month for setting the tone for a positive beginning to the academic year and to prepare the Haskell community for the October Domestic Violence Awareness Month. While on campus, the team held six





educator/advocate track, and the NativeLove Challenge. We conduct and provide video/photo contests, customizable posters and resources, social media campaigns, FAQs, and both teen and adult resources and toolkits. These are offered to support and inform youth and educators about healthy relationships and to encourage dialogue in Native communities to end domestic and sexual violence.

The NIWRC NativeLove team continues to travel far and wide to meet with tribes, tribal communities, and Native youth to talk about teen dating violence and the importance of awareness. We look forward to

The Haskell Indian Nations community will now host its first ever Two-Spirit Powwow on February 24, 2018! Follow the Haskell Two-Spirit Powwow event page for more information at: <https://www.facebook.com/events/134928123876497/>

### Change. We can do this.

Other important discussions included the StrongHearts Native Helpline about "How to Identify Unhealthy Relationships," where the Helpline presented information and resources for the new national domestic violence helpline specifically created to respond to the needs of Native people, for Natives, by Natives.

The NativeLove and StrongHearts Native Helpline team also provided information and resources at an informational booth at the Haskell Welcome Back Powwow and further provided a screening of the 2017 film *Wind River* with a post-screening panel discussion on murdered and missing Native women and girls. Since 2014, Verizon has partnered with NIWRC to raise awareness and help end violence against Native youth by empowering them to redefine NativeLove. Those of us in Native communities often hear jokes about "Indian loving" as waking up with a hickey and black eye—that's not love, that's dating violence. The NIWRC NativeLove project encourages Native youth to think about what love really is, so we can create change in our thinking and restore safety to our communities by restoring our traditional ways of how we love others, characterized by respect, honor, kindness, family, and compassion. Our NativeLove project includes three different tracks: a youth engagement track, adult/

building partnerships to support the work of grassroots advocates and other national youth organizations. Our philosophy is meant to engage youth by providing mentorship to show the value of "treating each other as relatives" including collaboration as a vehicle for social change. NativeLove offers national Twitter circles, tribal site visits and training, awareness month presentations, information booths, tribal school/urban Indian public schools/boarding school assemblies, community center events, youth conference or community workshops, youth leadership and mentoring, and other customizable projects on a wide variety of intersections that impact or impede healthy love for youth. If you would like to learn more or have NativeLove visit your community, please contact [nativelove@niwrc.org](mailto:nativelove@niwrc.org).



*TheNativeLove Team would like to extend our deepest gratitude to Lenny Hayes of Tate Topa Consulting for the support of the NativeLove Project. His dedicated work to Two-Spirit and Native LGBTQ youth inspired us to create the first Ally and Gay Pride T-shirt. Wopila, Lenny Hayes!*

*To purchase this T-shirt or one of our healthy relationship designs, please visit: <http://nativelove.niwrc.org/shop/>*

# Marylouise Kelley Retires

On behalf of the NIWRC,

We wish you heartfelt congratulations on your retirement and best wishes for a bright future! During your 12 years of leadership, the FVPSA office has taken important steps forward in serving Indian nations, particularly Alaska Native villages and the StrongHearts Native Helpline. You have touched countless lives on so many levels across our tribal nations, Indian communities, Alaska Native and among Native Hawaiian communities. We are truly thankful for your stewardship of the FVPSA office and support for increasing the safety of Native women.

For all that you have done to end violence against Native women, we thank you!



# Thank you, Terri Henry!

## Former Co-Chair NCAI Task Force on Violence Against Women



*"During Terri's tenure as Co-Chair, we achieved the passage of VAWA 2013 and the Tribal Law and Order Act of 2010. The Task Force worked to weave together the provisions of these laws to acknowledge the sovereign authority of Indian tribes to protect Native women from non-Indian perpetrators committing domestic and dating violence. We strengthened the jurisdictional authority of Indian tribes, tribal court, tribal police departments, and services that helped our Native women to create shelters, and SART teams and stabilized funding under CTAS. Throughout this struggle, we maintained the essential involvement and important role of advocates to support and assist Native women and all victims. Terri Henry contributed her expertise and knowledge of DOJ and OVW, federal Indian law, and the international context to win victories for the movement. On behalf of the Task Force and the network of all the members of the Task Force, we applaud Terri and welcome Michelle Demmert as the new Co-Chair." –Juana Majel, NCAI Secretary and Co-Chair Task Force on Violence Against Women.*

As Terri Henry, our beloved Co-Chair of the NCAI Task Force, moves on we wish her well and send our deepest appreciation for her leadership over the years. In June 2010, Terri Henry became the Co-Chair of the NCAI Task Force on Violence Against Native Women. At the time, Terri served as a Tribal Council Member for the Eastern Band of Cherokee Indians. Terri has left her position as the Task Force Co-Chair, and Michelle Demmert has stepped into the role.

Terri played an instrumental role in the creation of the Task Force in 2003. For close to two decades, Terri has provided leadership to the Task Force at the tribal, regional, national, and international levels. Since 2003, we have witnessed historic changes in federal law and policies that Terri helped to make possible. Terri provided essential leadership in the reauthorization of VAWA 2005 and the establishment of a tribal title within VAWA. During the difficult struggle to enact the tribal amendments of VAWA 2013 and restore tribal jurisdiction over non-Indians, she stepped forward to lead the effort in Washington, DC. In addition, Terri provided leadership for the passage of the Tribal Law and Order Act in 2010 amending the Indian Civil Rights Act to increase the sentencing limitation on tribal courts from one to three years per offense.

Working collaboratively to build a national movement since 1996, Terri's efforts have made a real and historic difference in the everyday lives of Native women. We extend to Terri our deepest appreciation for her dedication and tireless commitment to the safety of Native women and sovereignty of Indian nations.



*Top: 2011, Senate Hart Building, Washington, DC—Terri thanking Senator Akaka for introducing the SAVE Native Women Act which was incorporated into the VAWA 2013 to become the historic amendment restoring criminal jurisdiction to Indian tribes over non-Indians committing domestic violence.*



*Top: 2010, White House, Washington, DC—Terri thanking President Obama during the signing of the Tribal Law and Order Act of 2010 amending the Indian Civil Rights Act to increase the tribal court sentencing limitation from one to three years per offense.*

# Welcome Michelle Demmert!

## New NCAI Task Force Co-Chair, 2018



*"As we give our deep appreciation to the former Co-Chair of the NCAI Task Force on Violence Against Women, Terri Henry (Eastern Band Cherokee Indians), we welcome Michelle Demmert as the new Co-Chair," said Juana Majel. "I look forward to working with Michelle to continue to advance the safety of Native women and sovereignty of Indian nations."*

Michelle has a long history of working to end violence against women through advancing legal protections and public policies supporting safety for women and children since 1995. Michelle Demmert (Tlingit, Eagle, Kaax'ooos. hittaaan clan) is a current delegate and elected Chief Justice for the Central Council Tlingit and Haida Indian Tribes of Alaska. Currently, Michelle serves as the Law and Policy Consultant to the Alaska Native Women's Resource Center under the Family Violence Prevention Services Act (FVPSA) grant.

### Domestic Violence Judicial Expertise

As the presiding judge at the Chehalis tribe for over 10 years, Michelle assisted with amending code provisions that provided greater protections for women and children, as well as developing a court process that holistically addressed all participants. During this time, she also assisted the Northwest Tribal Court Judges' Association with the creation of a bench book on processing domestic violence cases, establishing a full faith and credit process with the state for registering tribal

Orders of Protection and participated as a significant contributor to a Tribal Prosecutor's Pilot Project and Manual for best practices in this area. As a judge, Ms. Demmert issued Orders of Protection as necessary for all member tribes of the Northwest Intertribal Court System, as well as presided over numerous criminal domestic violence cases, both bench and jury. She is their current Chief Judge.

### Special Domestic Violence Court Jurisdiction

Ms. Demmert joined the Northwest Justice Project's Domestic Violence unit for a brief time before being recruited to the Tulalip Tribes' Office of Reservation Attorney, where she continues to work on special projects. While at the Tulalip Tribes, she was the primary author of their complete revision of the Domestic Violence code, which includes provisions for exercising Special Domestic Violence Court Jurisdiction (SDVCJ). She was there primary point of contact for this process from the beginning. She now represents the Chehalis Tribe, as their Chief Judge, on the Intertribal Work Group for SDVCJ and has presented about this process at many tribal, state, federal and university forums. In addition, she represented the Tulalip Tribes as their Point of Contact for the Tribal Access Program during the User Feedback Pilot Phase and assisted with the development of laws and policies to assist implementation.



*"Foundational to the safety of Native women is respect for tribal sovereignty at every level of government."*

*–Michelle Demmert,  
footsteps of the United  
States Supreme Court,  
Quilt Walk for Justice,  
December 7, 2015*

## Annual Government-to-Government Consultation Mandated Under VAWA 2005

Michelle has provided testimony during the Office of Violence against Women's (OVW) annual consultation on behalf of the Tulalip Tribes, as well as Chief Justice for the Central Council Tlingit and Haida Indian Tribes of Alaska to bring awareness to Alaska specific issues. (<http://ovwconsultation.org/wordpress/wp-content/uploads/2016/08/OVW-Annual-Consultation-Report.pdf>)

Michelle is a graduate of the University of Washington for both her law degree and her BA in Psychology. Michelle is actively engaged in the Alaska commercial fishing industry prior to her practice of law.



*Top: October 2015, Washington, DC—Michelle Demmert following her presentation on behalf of the Tulalip Tribes regarding implementation of SDVCJ during Domestic Violence Awareness Month. Pictured left to right: Oscar "OJ" Flores, Chief Prosecutor, Pascua Yaqui; Alfred "Fred" Urbina, Former Pascua Yaqui Attorney General; Loretta Lynch, U.S. Attorney General; Michelle Demmert, while Reservation Attorney, Tulalip Tribes; Deborah Parker, Former Vice-Chair Tulalip Tribes; and, Sharon Jones Hayden DV/SA Prosecutor Tulalip Tribes.*

*Left: September 18, 2017, Organized Village of Kake—Michelle presented during the Alaska Native Women's Resource Center Community Engagement Session in partnership with the Organized Village of Kake.*

# Rainbow of Truth, Respect Is Traditional, Violence Is Not

By Wendy Schlater,  
Program Director, La Jolla Band of Luiseno Indians Avellaka Program

As post-VAWA generations come of age, many understand and much work remains to reach across all populations including same-sex relationships. The Lesbian, Gay, Bisexual, Transgendered, or Queer peoples, often referred to as LGBTQ or Two-Spirit, were historically and continue today as organic members of tribal communities fulfilling essential tribal roles and responsibilities. Our movement's tribal legislative victories are of historic significance and must continue to reach all Indian nations and in this context, we as a national indigenous movement must also recognize the impact of the legal attacks on LGBTQ or Two-Spirit people.

Fortunately, the frightening efforts to amend state laws to criminalize LGBTQ relatives do not reach into tribal law. Unfortunately, these efforts as cultural attacks reach across all borders threatening the safety and lives of LGBTQ tribal relatives. Recognizing these state legal attacks have a national impact discussion of the need to stand with LGBTQ tribal relatives is an important one for our movement across tribal communities. For tribal peoples, this discussion must acknowledge current legal barriers imposed upon the jurisdiction of Indian tribes impact LGBTQ/Two-Spirit people living on reservations. Specifically, the rights of Native LGBTQ/Two-Spirit people to equality, justice, and protection as citizens of Indian nations.

The national movement to increase safety of Native women has a role in reclaiming safety and security for Native LGBTQ/Two-Spirit people by raising awareness, and increasing intervention and, prevention efforts. Increasing safety and strengthening tribal sovereignty is linked to understanding the incredible effects of colonization that has disrupted our cultural customs and traditions that as Native people, respects all life. Within many tribes, our indigenous creation legends have examples of acknowledging LGBTQ folks and holding safe space, honor, and respect within our societies, clans, and moieties for Native LGBTQ/Two-Spirit people.



"We understand our roles and responsibilities to our tribal nations today and traditionally over time. Thus, it is shortsighted and narrow to seek only legal protections for Native LGBTQ peoples. We seek restoration of respect for our traditional sacred roles as honored members of our tribal nations."

—Wendy Schlater

## Indigenous Cultures of Respect

Rooted in deep traditions and distinct ways of life, tribal nations are defined by indigenous peoples, places, cultures, and governance. When we as indigenous people practice our tribal values and teachings of "Respect All Life," we are demonstrating cultural beliefs and value systems of governance that has existed long before colonization and predates the U.S. Constitution. Generally speaking, we as indigenous people understood it was not in the tribes' best interest, nor did it align with our spiritual and cultural beliefs, to be disrespectful to community members, family, animals, land, and water. This included community members that identified as Native LGBTQ/Two-Spirit people.

Most tribes embraced the powerful and definitive involvement of women within tribal governments, often looking to women for important and overall community decision-making. For centuries prior to colonization, there were times of intentional unified peace across neighboring tribes, in which we conducted and organized nation-to-nation treaty-making. Societies were constructed within tribes that affirmed and



*May 5, 2017, La Jolla Indian Reservation--Wendy and her son join the NIWRC online national and international actions to mark the first National Day of Awareness for Missing and Murdered Native Women and Girls. #MMIWG"*

enforced positive roles for all community members. As in pre-colonial times, tribes continue to demonstrate self-determination, self-governance, and tribal sovereignty.

### **A Historical Indigenous View**

Within Native cultural traditions, it was understood and often embraced, those with varying sexual orientations and/or gender expressions occupied a social and spiritual position somewhere in between male and female. These individuals could walk in both male and female worlds without community preoccupations of binary views. They had the ability to "see" from multiple points of view, and communicate fluidly between worlds. In many tribes, this was considered sacred, special, and they were often considered teachers and those from which to seek advice.

Early explorers were unable to understand why "those" people (Native LGBTQ/Two-Spirit) were often held in high esteem within the community. Some of the early explorers and missionaries referred to them as Berdache, reflecting the European religious crusades from centuries earlier. The term Berdache refers to male cross-dressing slaves kept for sexual purposes in ancient Persian society.

Like many Native communities, the Native Californian communities of the San Francisco Bay area recognize

additional third and fourth genders. These individuals were distinguished from other men and women by wearing clothing, having mannerisms, and doing work associated with the gender different from their sex at birth.

Additionally, individuals with varying sexual orientations and gender expression in some California tribes had special responsibilities as healers, shamans, and undertakers. However, Spanish-colonial religious doctrine, military regulations, and civilian laws only recognized two genders and condemned those who identified outside of those identities (whom the colonists called "joyas" and "amazonas"), and referred to them as sodomites.

### **Organizing a National Movement to Increase Safety**

The national movement for the safety of Native women has and continues to win victories to protect Native women and strengthen sovereignty. By doing so, our movement strengthens respect for all Native peoples and Indian nations. Inclusive within this movement are LGBTQ relatives who play a multitude of roles from advocacy, program directors, to tribal leadership and so many more. Looking toward the future, this organic relationship not only serves our national movement but offers many lessons to our non-Native allies.

## The Meanings of Common Terms

According to the Human Rights Campaign many Americans refrain from talking about sexual orientation and gender expression identity because it feels taboo, or because they're afraid of saying the wrong thing. The following glossary was written to help give people the words and meanings to help make conversations easier and more comfortable.

**LGBTQ** | An acronym for "lesbian, gay, bisexual, transgender and queer.

**Lesbian** | A woman who is emotionally, romantically, or sexually attracted to other women.

**Gay** | A person who is emotionally, romantically, or sexually attracted to members of the same gender.

**Bisexual** | A person emotionally, romantically, or sexually attracted to more than one sex, gender or gender identity though not necessarily simultaneously, in the same way or to the same degree.

**Transgender** | An umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc.

**Queer** | A term people often use to express fluid identities and orientations. Often used interchangeably with "LGBTQ."

For more information visit [www.hrc.org/resources/glossary-of-terms](http://www.hrc.org/resources/glossary-of-terms), [www.ucdmc.ucdavis.edu/lgbtq-council/lgbtq\\_training.html](http://www.ucdmc.ucdavis.edu/lgbtq-council/lgbtq_training.html) and [www.nwnetwork.org/youth-programs-and-activities](http://www.nwnetwork.org/youth-programs-and-activities)



## About Wendy Schlater

Wendy Schlater is an enrolled member of the La Jolla Band of Luiseño Indians. Wendy was born, raised, and lives on the La Jolla Indian Reservation in the Palomar Mountain range located in northern San Diego County. Wendy has served her tribe in several capacities, including being the youngest Tribal Chairwoman. Currently, she serves as Program Director of La Jolla's Avellaka Program addressing safety for Native women on her reservation. In this capacity, she led the La Jolla Native Women's Advisory Committee to organize the first annual Inter-Tribal Sexual Assault Awareness Walk in 2010, which continues today traveling to different Tribal Reservations and is on its 9th year. The walk has more than 2,000 plus participants, an activity that helps Tribal communities gain awareness about the epidemic of violence against Native women in their community. Wendy is also a member of the San Diego County Sexual Assault Response Team Committee and a Tribal Subcommittee member of the Violence Against Women Act Committee. She has experience serving as an on-call sexual assault advocate for the rape crisis center in San Diego County and a victim advocate for the Peace Between Partners Program at the local Indian Health Council. The National Indigenous Women's Resource Center is honored to have Wendy serve as the Treasurer of NIWRC's Board of Directors. Watch Wendy at [www.youtube.com/watch?v=HFUM3ZkRUj8](https://www.youtube.com/watch?v=HFUM3ZkRUj8).



# Indigenous Approaches to Research: Tribal Control and Participation

Ada Pecos Melton, MPA,  
(President, American Indian Development Associates, LLC)

Michelle Chino, Ph.D.,  
(Professor Emeritus, UNLV School of Community Health Sciences)



December 28, 2017, Anchorage, Alaska—The American Indian Development Associates met with the Alaska Native Women's Resource Center to discuss an overview of their participatory evaluation process. Pictured Ada Pecos Melton (left) and Michelle Chino (right).

American Indians and Alaska Natives (AI/AN) have been the subject of extensive research over the past few hundred years (Caldwell et al., 2005), more than any other U.S. minority group (Brugge & Missaghian, 2006). The majority of AI/AN research, however, has not only failed to address issues of concern to AI/AN people (Crazy Bull, 1997) and/or improve health and well-being (Cochran et al., 2008), but has had a negative effect on tribal people and tribal cultures (LaFromboise & Plake, 1983; Wax, 1991). AI/AN research is rife with examples of data being collected, interpreted, and disseminated without the knowledge, consent, or participation of the local people and without respect for local culture and tradition (Caldwell et al., 2005; Hodge, Weinmann, & Roubideaux, 2000; Macaulay et al., 1999). This lack of inclusion does not allow community to define, shape, interpret, or effectively implement programs or policies based on the findings (Warne, 2006). It has only been very recently that AI/AN people have been more actively included in research (Smith, 1999), that indigenous epistemologies are being considered (Cochran et al., 2008) and indigenous scholars recognized (Steinhauer, 2002; Mihesuah & Wilson, 2002).

Indigenous research must include the Indigenous world-view, the Indigenous system of knowledge and employ a theoretical framework that empowers the community and does not add to the layers of oppression and further colonization of Indigenous peoples.

– Ada Pecos Melton, MPA, (President, American Indian Development Associates, LLC)

Tribes represent a multiplicity of cultural, historical, and linguistic experiences with important variations in each tribe's socio-political experiences (Baldwin, Johnson, & Benally, 2009). The challenges of capturing the realities of diverse communities demand new approaches to the traditional Western academic models and solutions relevant to local realities (Poupart, Baker, & Horse, 2009). The tribal context must include an understanding of the diversity of tribes, tribal histories, the community's cultural context, and the unique political relationship tribes have with local, state, and the federal governments (DeBruyn et al., 2001).

## Indigenous Research Challenges

Methodological challenges for research among AI/AN populations can run the gamut from sample size calculations to maintaining confidentiality to individual vs. community informed consent. For example, the intrinsic characteristics of most tribes including small population size, geographic dispersion, and concentration in remote areas makes it difficult to develop representative sampling strategies (Chino & LaValley, 2010). Data collection is often associated with investigator biases, the failure of investigators to gain trust and establish credibility, community perceptions of the institutions collecting the data, perceptions regarding the ultimate application and use of the data (Buchwald et al., 2006), and a lack of commitment to the welfare of the community (Chino & Lavalley, 2010). Non-Native investigators may fail to incorporate cultural



*"The Alaska Native Women's Resource Center welcomes our new 2018 partnership with Ada and Michelle to understand and fully examine the indigenous approaches of our grassroots organizing efforts. We will work to evaluate our projects step-by-step with American Indian Development Associates (AIDA) to continue to increase the safety of Native women through the leadership and participation of Alaska Native villages."—Tami Truett Jerue, Executive Director, Alaska Native Women's Resource Center, December 2018 Staff Meeting with AIDA, Anchorage, Alaska.*

and linguistic differences that lead to altered survey responses and mistaken interpretation of findings (Melton, 1999).

Tribes are now exercising sovereignty in the realms of research by taking control over the kinds of research that involve tribal members and that are conducted on tribal lands (Mertans & Ginsberg, 2009). Research approaches and protocols must ensure safety, privacy, and confidentiality for both participant and community (Foster et al., 1999). Researchers must also ensure the science is sound and the results are used for social change (Ellsberg & Heise, 2002). Researchers need to recognize there are unique protocols when working on sovereign lands and to be respectful and proceed in the most ethical and most culturally sensitive way (Rekow, 2012).

### **Tribal Control and Participatory Research**

Tribes value research but it must address critical questions from the community, must follow tribal research codes, and follow the values, traditions, and culture of

the tribe (Thomas, Donovan, Sigo, Austin, & Marlatt, 2009). Thus, tribes are increasingly cognizant of the importance of controlling and screening research in their communities (Bowekey, 2001), often requiring a tribally driven or, at a minimum, a participatory approach to ensure the research strengthens communities, helps to improve the health and quality of life, and expands knowledge in an acceptable, useful, and meaningful way for tribal communities (Mariella, Brown, Carter, & Verri, 2009; The Suquamish Tribe, 2009). Working through these issues with community is an essential part of the process requiring trust, reciprocity, accountability, and time (Chino & DeBruyn, 2006). A participatory process can ensure accuracy, help embed findings into programs and policies, and promote self-determination.

### **Tribes are now exercising sovereignty in the realms of research.**

**– Michelle Chino, Ph.D.,  
(Professor Emeritus, UNLV School  
of Community Health Sciences)**

Participatory research is challenging, however, as both community members and researchers must work together to navigate the complexities of ethics, practice, and conflicting agendas (Maguire, 2001; Reason & Bradbury, 2001). Getty (2010) posits that Indigenous research must include the Indigenous worldview and the Indigenous system of knowledge, and employ a theoretical framework that empowers the community and does not add to the layers of oppression and further colonization of Indigenous peoples. "Indigenous ways of knowing" (Smith, 2002) allow participants to define, analyze, give feedback, disseminate, and problem solve in the context of the community. The challenge for researchers is to build trust and communication throughout the process and ensure that the study gives the community needed

information for decision-making and improving system responses (Melton & Chino, 2009). The hope is that research collaborations will evolve from merely informing or consulting Indian nations, to involvement, collaboration, and ultimately empowerment.

A complete copy of this article, including references, is available at: [www.aidainc.net/Publications/index.htm](http://www.aidainc.net/Publications/index.htm).



***Indian people are entitled to benefit from knowledge gained through research.***

# April 2018 is Sexual Assault Awareness Month

Sexual Assault Awareness Month (SAAM) is an annual campaign to raise public awareness about sexual assault and educate communities and individuals on how to prevent sexual violence. It is observed in April. Each year during the month of April, state, territory, tribal and community-based organizations, rape crisis centers, government agencies, businesses, campuses and individuals plan events and activities to highlight sexual violence as a public health, human rights and social justice issue and reinforce the need for prevention efforts.

The theme, slogan, resources and materials for the national SAAM campaign are coordinated by the National Sexual Violence Resource Center (NSVRC) each year with assistance from anti-sexual assault organizations throughout the United States. You can join the conversation on social media using #itsnotok and follow NSVRC @itsnotok2018. You can even add their Facebook cover and Twitter banner to your profile to show your support.

You can go to a local event and meet like-minded people. Or how about organizing your own event? Check out NSVRC's suggestions for events or read about past events for inspiration. If you are an organization you can recycle or create a campaign with the #itsnotok logo and hashtag to promote awareness of your services, prevention, support etc. as well as participate in social media conversations and involve your local media and community.

## History of Sexual Assault of Awareness Month

Internationally women have organized protests against violence since the late 1970s in England with Take Back the Night marches. These women-only protests

emerged in direct response to the violence that women encountered as they walked the streets at night. These activities became more coordinated and soon developed into a movement that extended to the United States and, in 1978, the first Take Back the Night events in the U.S. were held in San Francisco and New York City. Over time, sexual assault awareness activities expanded to include the issue of sexual violence against men and men's participation in ending sexual violence.

By the early 1980s, there was increased interest in coordinating activities to raise awareness of violence against women. As a result, time was set aside during October to raise awareness of violence against women issues. Over time, October became the principle focus of domestic violence awareness activities. Sexual assault advocates looked for a separate time to focus attention on sexual assault issues. In the late 1980s, the National Coalition Against Sexual Assault (NCASA) informally polled state sexual assault coalitions to determine when to have a national Sexual Assault Awareness Week. A week in April was selected. In the late 1990s, many advocates began coordinating activities throughout the month of April on a regular basis, promoting an idea for a nationally recognized month for sexual violence awareness activities. From 2000-2001, the Resource Sharing Project (RSP) and the National Sexual Violence Resource Center (NSVRC) polled state, territory, and tribal coalitions and found that the color teal was the preferred color for sexual assault awareness and prevention and that April was the preferred month to coordinate national sexual assault awareness activities. As a result, Sexual Assault Awareness Month (SAAM) was first observed nationally in April 2001.

## Southern California Annual Inter-tribal Sexual Assault Awareness Walk

Join the Southern California SAAM Walk on April 15 on the Pala Indian Reservation. Since 2010, Indian tribes in Southern California have organized an annual inter-tribal Sexual Assault Awareness Walk, an event that helps tribes gain awareness about the epidemic of violence against Native women in their communities. Originally launched at the La Jolla Indian Reservation, the walk today continues by traveling to different Indian reservations throughout Southern California and gathers more than 2,000 participants. For more information, call (760) 742-8628.



*Pictured left to right: Viola Peck, the oldest elder of the La Jolla Indian Tribe; Juana Majel, member Pauma Band of Luiseño Indians, NCAI Secretary and Co-Chair Task Force on Violence Against Women; and Connie*

*Bush Breaker, daughter of the late Tillie Black Bear, Grandmother of the Safety for Native Women's movement.*

# April is Sexual Assault Awareness Month

## What are you doing to make a difference?

Sexual violence is often difficult to talk about. But as advocates, first responders, tribal leaders, allies, and relatives to Native women, we know that the first step to preventing sexual assault is to raise public awareness about it. As April 2018 approaches, NIWRC encourages everyone to organize discussions in your communities to educate, identify resources and strengths, needs and challenges, and develop action plans to prevent sexual violence.

### Join NIWRC online events during the month of April:

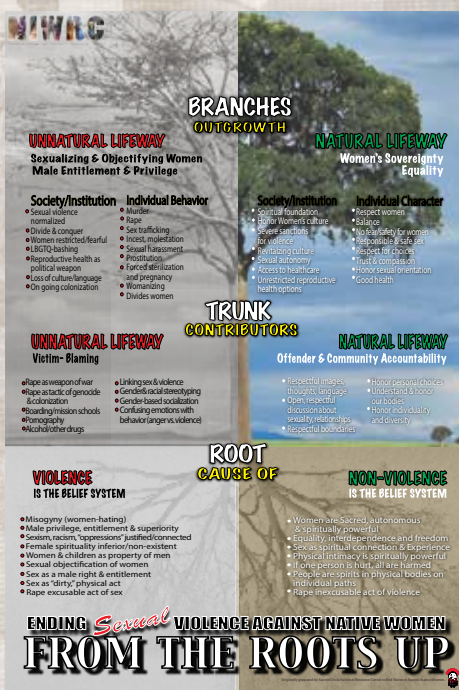
- **WEAR TEAL: April 3rd**-SAAM Day of Action. Wear teal to show your support for victims and survivors of sexual assault
- **WATCH: April 13th**- Screening of *Wind River* with Tribal Coalitions, NIWRC board and staff at Pala Casino Resort & Spa in Pala, CA.
- **WALK: April 15th**- Southern California SAAM Walk in the Pala Indian Reservation.
- **SHARE: 31 Days of Sexual Assault Awareness Month**. NIWRC will update the 31 Days of SAAM digital postcards on social media that feature facts about sexual violence in Native communities. Visit our photo album for updates at: <http://bit.ly/2mPzqeo>
- **EXPLORE:** NIWRC's Online Resource Library for past webinars, reports, etc at [www.niwrc.org/resources](http://www.niwrc.org/resources)

In preparation for SAAM, the NIWRC announces the availability of two awareness tools you can use to help raise public awareness about sexual violence in your community. We are now offering the *Ending Sexual Violence Against Native Women From The Roots Up* poster and the *Sexual Violence is NOT our Tradition* bumper sticker for order on our website.



<http://store.niwrc.org/>

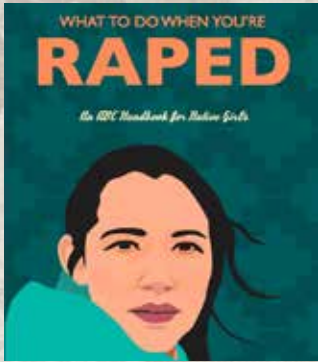
- A full color 19" x 13" poster, Price: \$5.00
- A full color 11" x 3.5" bumper sticker, Price: \$1.00



This tree illustrates the concept that both sexual violence and harmony are out-growths of our society's accepted belief systems. This poster shows the institutional and individual responses to both the unnatural, violent belief system that too often leads to sexual violence against our Native women and the natural, Native belief system that helps create societal and individual harmony.

An excellent teaching tool and guide to critical thinking. The design for this poster was originally created by Sacred Circle-National Resource Center to End Violence Against Native Women.

## Tribal Resources Addressing Sexual Assault



"What To Do When You're RAPED: An ABC Handbook for Native Girls," Native American Women's Health Education Resource Center  
<http://nativeshop.org/images/stories/media/pdfs/what-to-do-handbook.pdf>



"Tribal Legal Code Resource: Sexual Assault and Stalking Law." A Guide for Drafting or Revising Victim-Centered Tribal Law and Policy Institute, April 2017.

[www.niwrc.org/resources/tribal-legal-code-resource-sexual-assault-and-stalking-laws](http://www.niwrc.org/resources/tribal-legal-code-resource-sexual-assault-and-stalking-laws)

# SAVE THE DATE

**Conversations With The Field:  
*Understanding Sexual Assaults  
in Tribal Communities within  
the Context of Intimate Partner  
Relationships***

**Capitol Hilton**

**1001 16th Street, NW, Washington DC**

**Room Federal B**

**Monday, February 12th, 2018**

**12:00-1:30PM**

Over the last decade, the national awareness of sexual assault against Native women has increased, but more must be done at all levels to stop sexual assaults against Native women, including those occurring within the context of intimate partner relationships. The conversation with the field will be a discussion focused on the scope of sexual assaults committed against American Indians and Alaska Natives and concerns related to tribal, federal and state systems' responses, and how adequate and culturally appropriate responses can help reduce the trauma and disparities experienced by Native victims.



**National Indigenous Women's Resource Center**

The National Indigenous Women's Resource Center's participation in this briefing was supported by Grant Number 90EV0452-01-00 from the Administration on Children, Youth and Families, Family and Youth Services Bureau, U.S. Department of Health and Human Services.



# SOVEREIGNTY OF THE SOUL: EXPLORING THE INTERSECTION OF RAPE LAW REFORM AND FEDERAL INDIAN LAW

By Sarah Deer

*During the month of April 2018, Indian Nations and tribal organizations will host public events, vigils, walks, conferences and other activities to increase public awareness of sexual assault. In organizing such awareness activities pausing to examine the importance of increasing the national understanding of the relationship of sexual assault reform efforts and strengthening the sovereignty of Indian nations is timely. Restoration is honored to reprint excerpts of Sarah Deer's article highlighting the intersection of these two priority issues of the movement. We encourage everyone to read the entire article and circulate it widely: [www.red-wind.net/resources/Sexual-Assault/Sovereignty-of-the-Soul---Deer.pdf](http://www.red-wind.net/resources/Sexual-Assault/Sovereignty-of-the-Soul---Deer.pdf) The article provides important insight on why organizing to create increased protections for Native women from sexual assault must be linked to strengthening the sovereignty of Indian nations. In addition, we recommend hosting discussions of Sarah Deer's book "The Beginning and End of Rape, Confronting Sexual Violence in Native America" during this April's Sexual Assault Awareness Month.*

This Article is designed with two audiences in mind. On one hand, it is to enlighten sexual assault scholars and practitioners about the importance of sovereignty in the analysis of rape law and reform. On the other hand, to persuade Indian law scholars and practitioners that the development of sexual assault jurisprudence is central to the struggle for sovereignty. Ultimately, this Article argues that it is impossible to separate theories of indigenous self-determination from theories on sexual assault jurisprudence. It is critical that a dual analysis be employed in both disciplines because sexual violence is so deeply imbedded in colonizing and genocidal policies.

Sexual assault law and legal reform is incomplete without a discussion about Federal Indian Law. There are three main reasons for this: Native American women suffer the highest rate of sexual assault in the United States, rape and sexual violence were historically used as weapons of war against indigenous peoples, and contemporary tribal governments have been deprived of the ability to prosecute many sex offenders. These three facts provide justification for an in-depth analysis of the intersection between sexual violence and Federal Indian Law. In explaining my perspective, this Article begins with some basic information about rape and sexual assault against Native American women. Next, I will provide a historical context for the information. Finally, I will explain the numerous legal challenges faced by tribal governments in addressing the problem.

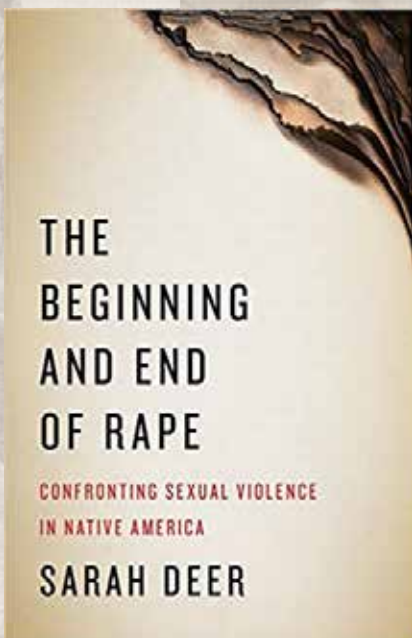
*Sexual assault law and legal reform is incomplete without a discussion about federal Indian Law.*

Notably, the statistics published by the Department of Justice in the last five to six years indicate that Native American women, per capita, experienced more rape and sexual assault than any other racial group in the United States. In fact, American Indian and Alaskan Native women experience a higher rate of violence than any other group, including African-American men and other marginalized groups. One Justice Department report concluded that over one in three American Indian and Alaskan Native women will be raped during their lives.

When I travel to Indian country, however, advocates tell me that the Justice Department statistics provide a very low estimate, and rates of sexual assault against Native American women are actually much higher. Many of the elders that I have spoken with in Indian country tell me that they do not know any women in their community who have not experienced sexual violence.

I want to briefly discuss the nature of rape against indigenous women in this country because the experience of Native American women, as captured in these national surveys, is significantly different than the experience of the mainstream population. Dr. Ronet Bachman, a statistician at the University of Delaware, recently reviewed the raw data from the National Crime Victimization Survey (NCVS) and presented new calculations. I am going to cover just a few of her findings, which were based on ten years of surveys spanning 1992-2002. First, in accordance with the Justice Department reports, Dr. Bachman found that Native American women suffer the highest rate of sexual victimization when compared to other races.

Additionally, the physical nature of the violence shows a significant difference with respect to rape involving



Native Americans and other races. In discussing these differences, I do not mean to suggest that rape itself is not always violent. American Indian women, however, more often experience sexual assault accompanied by other overt forms of violence. For example, when asked whether aggressors physically hit them during the assault,

over 90% of female Native American victims responded affirmatively as compared to 74% of the general population. Dr. Bachman also examined the number of women who reported suffering physical injuries. When asked if they suffered physical injuries in addition to the rape, 50% of female Native American victims reported such injuries, as compared to 30% of the general population, indicating a different level of violence. Although reluctant to compare traumas and declare that one person's rape was worse than another person's rape, when you see these numbers materialize consistently over a ten year period, you have to wonder why this is happening.

In general, very few rapes across the nation involve weapons. The NCVS results indicate that 11% of all reported rapes involve the use of a weapon. The numbers, however, are over three times as high, 34%, for female Native American victims. What is going on here? Why are Native American women victimized in such a brutal way, and what is happening on the reservations that can explain these horrifying statistics?

This final statistic is perhaps the most startling of all, and will become even more so when discussing the jurisdiction issues. Criminologists who study rape have determined that the vast majority of rapes are intra-racial. For example, a white man tends to rape a white woman and a black man tends to rape a black woman. When examining rape involving American Indian women, however, we see that over 70% of the assailants are white. The 1999 Department of Justice Bureau of Justice Statistics concluded that about nine in ten American Indian victims of rape or sexual assault had white or black assailants. This discrepancy will factor into the later discussion about colonization.

One major weakness in these statistics is that none

of the surveys identify whether the crime happened on land subject to tribal jurisdiction. Until 1999, the NCVS did not include particularized questions about jurisdiction, except to distinguish between urban and rural areas. Knowing where these crimes occur is critical because, due to a complicated legal history, the jurisdiction of tribal governments is much more limited than the jurisdiction of the state and federal system.

*Much change has been attempted in the Anglo-American approach to sexual assault in the last thirty years, but things have not really changed for Native American woman in about 500 years.*

In order to analyze the legal response to sexual violence in Indian country, it is important to examine the 500 year history of rape of Native American women by Europeans. One of the historical angles from which to begin this analysis is the arrival of Christopher Columbus. Columbus is one of the major symbols of colonization in the Western hemisphere. Columbus' arrival not only represents the destruction of indigenous cultures, but also the beginning of rape of Native American women by European men. A passage from the diary of one of Columbus' aristocratic friends who accompanied him on the second voyage describes one such encounter:

When I was in the boat, I captured a very beautiful Carib woman . . . having brought her into my cabin, and she being naked as is their custom, I conceived desire to take my pleasure. I wanted to put my desire to execution, but she was unwilling for me to do so, and treated me with her nails in such wise that I would have preferred never to have begun. But seeing this . . . I took a rope-end and thrashed her well, following which she produced such screaming and wailing as would cause you not to believe your ears. Finally we reached an agreement such that, I can tell you, she seemed to have been raised in a veritable school of harlots . . .

So right away, upon contact, we are seeing immediate rape. We continue to see rape used as a tool of colonization and a tool of war against Native peoples for the next several hundred years, until the present day. Historian Susan Armitage writes, "It is well documented that Spanish-Mexican soldiers in Spanish California and New Mexico used rape as a weapon of conquest." The legal community recognizes that rape is used as a weapon in war and international tribunals

have address the issue. This legal analysis, however, is rarely applied to historical events. There are instances throughout history of using rape and sexual violence as a means of destroying a people, of rendering them unable to protect their lives and their resources, especially as a means to remove them from land that was desired. Another historian, Albert L. Hurtado, notes of the California gold rush, "part of the invading population was imbued with a conquest mentality, fear and hatred of Indians that in their minds justified the rape of Indian women."

Much change has been attempted in the Anglo-American approach to sexual assault in the last thirty years, but things have not really changed for Native American woman in about 500 years. Those in the anti-rape movement often talk about rape as an "equal opportunity" crime. Such sentiment, however, is a little short-sighted in that those in the anti-rape movement need to look at the specific impact of sexual violence on marginalized populations and indigenous populations. We also need to acknowledge that the United States was founded, in part, through the use of sexual violence as a tool, that were it not for the widespread rape of Native American women, many of our towns, counties, and states might not exist. This kind of analysis informs not only indigenous scholars, but also anti-rape scholars. Thus, critical to contemporary anti-rape dialogues is the inclusion of a historical analysis of colonization.

Language of the early European explorers and invaders makes numerous references to the land of this continent as "virgin land" or a "woman" available for seizure and invasion. The terminology used to describe so-called explorations and settlements sometimes has violent sexual connotations. In fact, the language used in illustrating colonization often parallels the language of sexual violence. For example, words like "seize," "conquer," and "possess" are used to describe both rape and colonization. In fact, when speaking with Native American women who have survived rape, it is often difficult for them to separate the more immediate experience of their assault from the larger experience that their people have experienced through forced removal, displacement, and destruction. Both experiences are

attacks on the human soul; both the destruction of indigenous culture and the rape of a woman connote a kind of spiritual death that is difficult to describe to those who have not experienced it.

*For tribal governments, defining and adjudicating crimes such as sexual assault can be the purest exercise of sovereignty. What crime, other than murder, strikes at the hearts of its citizens more deeply than rape?*

Given the history of colonization and the statistics showing significantly high rates of sexual assault for Native American women, what are the contemporary sexual violence issues in the lives of indigenous nations in the United States today? Two of the most significant issues are jurisdiction and resources; in essence, two integral facets of sovereignty that are integral to self-governance.

Substantial erosion of tribal jurisdiction over sexual assault has occurred over the last 120 years. Contrary to popular myth, tribal governments have always had justice systems, but recognition of these systems



*Sarah Deer (Muscogee (Creek) Nation) has worked to end violence against women for over 25 years and was named a MacArthur Fellow in 2014. Her scholarship focuses on the intersection of federal Indian law and victims' rights. Prof. Deer is a co-author of four textbooks on tribal law. Her latest book is *The Beginning and End of Rape: Confronting Sexual Violence in Native America*, which has received several awards. Her work on violence against Native women has received national recognition from the American Bar Association and the Department of Justice. Sarah is the co-author of two amicus briefs filed by NIWRC in cases impacting the safety of Native women before the United States Supreme Court. She currently teaches at the University of Kansas. Professor Deer is also the Chief Justice for the Prairie Island Indian Community Court of Appeals.*



by Europeans has not always occurred because of ignorance and prejudice. Our histories and oral teachings reveal the effectiveness of these justice systems. As sovereign nations, we exercised full jurisdiction over our land and our people as well as people entering our land against our wishes or with our consent. Due to a series of federal laws, tribal governments have lost jurisdiction over the vast majority of sexual violence that happens to Native

American women. Although these laws are numerous, this Article focuses on four: the Major Crimes Act, Public Law 280 (P.L. 280), the Indian Civil Rights Act (ICRA), and the case law of *Oliphant v. Suquamish*.

To access the complete article and review of these federal laws go to [www.red-wind.net/resources/Sexual-Assault/Sovereignty-of-the-Soul---Deer.pdf](http://www.red-wind.net/resources/Sexual-Assault/Sovereignty-of-the-Soul---Deer.pdf)

## The End of Rape in Native America

How can you help someone navigate a broken system? Is it enough that she is “just” surviving? How do you measure surviving? These are questions Sarah Deer asks in the epilogue of her book *The Beginning and End of Rape: Confronting Sexual Violence in Native America*. Deer poses these questions to challenge the movement to ensure that survivors of rape are believed and perpetrators are held accountable. These questions cast a different light on organizing for SAAM 2018 activities in challenging the movement to address social and structural changes required to end rape in Native America. While we organize for legal and policy reforms we must strongly support, and provide for the health and safety of survivors of rape. The following three questions are starting points in prioritizing rape survivors.

**“Federal grant programs, for example, ask tribal organizations to count the number of survivors served, trainings attended, and court cases closed. These questions may serve a bureaucratic purpose, but the responses to them provide little useful information to assess effectiveness. We need new metrics and we should develop them ourselves.”**

—Sarah Deer

*Are local conversations about rape happening in the community?*

Strong public statements by the tribal government through public service radio announcements or annual walks are signals to survivors and to perpetrators that rape is unacceptable. These public statements also

send a social message that it is okay to talk about rape and that it is wrong. The well known statistic that more than 1 of 3 Native women will be raped in their lifetime demands rape be an issue openly discussed in tribal communities. The Monument Quilt Project, <https://themonumentquilt.org>, is a vehicle for public healing and support for rape survivors that many Indian tribes and tribal coalitions have hosted in their communities.

*Do survivors of rape know where they can go for support?*

The criminal justice systems continuously fail rape victims. In many tribal communities there has never been a criminal prosecution of a rape case. This reality requires that as we organize for legal and policy reforms services are created and provided to rape survivors. Confidential advocacy programs provide crucial, lifesaving services and should be a starting point for creating a community response to rape.

*Do survivors of rape have access to a comprehensive health care response to rape, including access to emergency contraception?*

A rape survivor as a right should have access to health care services including access to emergency contraception to prevent future pregnancy without interference. The dangers of rape go far beyond the actual assault to lifelong and possibly life-threatening consequences. Providing health care services to rape survivors should be one of the highest priorities of tribal governments. Organizing to increase support for comprehensive health care services has not been a focal point of past reauthorizations of VAWA, which is a telling sign.

# A Call to Action to Declare May 5, 2018, a National Day of Awareness for Missing and Murdered Native Women and Girls



Photo courtesy of Jessica Karin Photography

In 2017, in response to the death of Roylynn Rides Horse at the Crow Reservation in June 2016, and the murder of Hanna Harris at the Northern Cheyenne Reservation in 2013, the Montana Congressional Delegation led the way for passage of a Senate resolution declaring May 5, the birthday of Hanna Harris, as a National Day of Awareness for Missing and Murdered Native Women and Girls.

Hanna Harris was 21 years old when she went missing on July 4, 2013. Due to the inadequate response of the justice system, her family and friends searched for Hanna. The community led a march for justice for Hanna and other unresolved murders of American Indian women.

Since May 5, 2017, numerous Native women have disappeared and many have been murdered. Turning our grief to action, NIWRC strongly supports and calls upon Congress to address the inadequate response of the criminal justice systems that fail Native women. The issues surrounding missing and murdered Native women must be brought into the public's awareness to increase accountability of the justice systems.

A National Day of Awareness for Missing and Murdered Native Women and Girls will help shed light on the countless tragedies involving our Native sisters. We are calling on all those concerned for the safety of Native women to organize at the local, tribal, state, national, and international levels to support a 2018 National Day of Awareness for Missing and Murdered Native Women and Girls. Native women need action now.

Join us to tell Congress *enough is enough*.

Now is the time for action!

**Lucy Simpson**, Executive Director, NIWRC

**Cherrah Giles**, Board Chair, NIWRC

## #MMIWG Online Resources

- NIWRC #MMIW Community Advocacy Toolkit: *Restoration*, June 2017: <https://goo.gl/qMIQk8>
- NIWRC & Indian Law Resource Center's Hill Briefing Creating Awareness on Missing and Murdered American Indian and Alaska Native Women: <https://goo.gl/5bqA7B>
- National Day of Awareness MMIW, Senate Resolution (S. Res. 60): <https://goo.gl/3mtBN7>
- NIWRC on Native American Calling's *The ongoing tragedy of missing Native American women*: <http://bit.ly/2EWWr6H>
- The Office of Justice Program's National Missing and Unidentified Persons System (NamUs): <https://namus.gov/>

# Why is a National Day of Awareness Needed?

One of the findings for the VAWA Safety for Indian Women Title is that during the period of 1979 through 1992, homicide was the third-leading cause of death of Indian females aged 15 to 34, and 75 percent were killed by family members or acquaintances. Since that time, the U.S. Department of Justice has found that in some tribal communities, American Indian women face murder rates that are more than 10 times the national average.

The disappearance and murder of Native women is part of a spectrum of violence experienced from birth to death. The Department of Justice reports the rate of violent victimization among American Indian women is more than double that among all women. The disappearances and murders are the end result of this spectrum of violence.

**“In Alaska, we are constantly responding to calls from mothers and the families of women who are missing,” said Tami Jerue, Director, Alaska Native Women’s Resource Center. “These fears are well founded in that Alaska Natives are murdered at a higher rate than other people in Alaska.”**  
The Department of Justice reports American Indians in Alaska made up about 16% of the state’s total resident population and 28% of the murder victims. (USDOJ, 2004, p. 13)

## **The disappearance and murder rate of Native women is not new.**

It began with the violent colonization of Indian nations. The violence committed against Native women historically was committed under the cloak of legality of government authority. Today it is linked to the public perception that nothing will be done when a Native woman disappears or is murdered. This perception places Native women in a dangerous and highly vulnerable position to violent victimization in public and within their homes. In many tribal communities no tribal law enforcement exist, in others tribal law enforcement is inadequate, and federal and state response in reality is absent.

A National Day of Awareness will place this horrific pattern of ongoing violence into the public eye, including that of law enforcement officials charged with the responsibilities of responding to such crimes. Creation of such a day will require people concerned with the disappearances and murders of Native women to take action to create the changes needed.

## **Murder of American Indians**

The following statistics from American Indians and Crime (USDOJ, 2004) provide important information regarding murder of American Indians in the United States.

- In five states, Alaska (28%), North Carolina (2%), Washington (4%), Minnesota (7%), and Oregon (3%), the proportion of murder victims who were American Indian exceeded their proportion of each state’s resident population. (2004, p.14)
- About 1 in 4 of the murder victims in Alaska from 1976 to 1999 were American Indians. Alaska accounted for about 10% of all murdered American Indians and had 4% of the nation’s American Indian population. American Indians in Alaska made up about 16% of the state’s total resident population and 28% of the murder victims. (2004, p. 13)
- During 1976 to 1999, in most murder cases involving a white or black victim, the offender was the same race as the victim. For example, 86% of white murder victims and 94% of black murder victims were murdered by an offender of their respective race. By comparison, American Indians (58%) were less likely to be murdered by an offender of their own race. In about 32% of the cases, American Indians were murdered by a white offender; 10%, by a black; and 1%, by an Asian. (2004, p. 14)

# Written Testimony on S. 1942, SAVANNA'S ACT

By Taylor Sheridan, Writer/Director of *Wind River*

Mr. Chairman, Mr. Vice Chairman, and Members of the Senate Committee of Indian Affairs, my name is Taylor Sheridan. Thank you for the opportunity to submit a written testimony in support of S. 1942, *Savanna's Act*. I am the writer and director of the film *Wind River*, which is rooted in my travels and time spent living in Indian Country. It is the third movie in a trilogy that explores the modern American West.

During my late 20s, I was welcomed into the Oglala Sioux Tribal community on the Pine Ridge Indian Reservation. While there, community members shared with me the story about a young Oglala Lakota woman, who I will refer to as "Natalie". Natalie was a basketball star with exceptional athletic ability and a student leader with an impressive academic record that would make her the first in her family to attend college. By all accounts, Natalie's path in life pointed towards her escaping the cycle of poverty endemic to Indian reservations, and the

possibility of becoming a future leader in her community and elsewhere. In a tragic turn of events, after missing for days, Natalie's body was found in a remote part of the reservation. Very little is known about the circumstances surrounding Natalie's death, but stories like hers have become commonplace.

Natalie's story - and countless others like hers - was the inspiration for *Wind River*, which tells the story of a young woman's rape and murder on the Wind River Indian Reservation, as well as the heartache and difficulties endured in bringing her perpetrators to justice. I hired a legal team to research statistics on the number of women who have gone missing on Indian reservations. My intention was to have a post script at the end of the film that highlighted the number of missing and murdered women on Indian reservations. Since no single government agency tracks information regarding missing and murdered Indigenous women, my team



Taylor Sheridan, writer/director of the feature film *Wind River*, speaks about the issue of missing and murdered indigenous women and girls, at the NIWRC Fundraiser and Honoring on November 2nd at the Montana Club in Helena, MT.

had to individually contact the Bureau of Indian Affairs, the Department of Justice, the Federal Bureau of Investigation, the Department of Health and Human Services, the Indian Health Service, the Substance Abuse and Mental Health Services Administration, the Administration for Family and Children, the Census Bureau, the Government Accounting Office, and the State Department seeking data. After three months of reviewing academic studies, government reports and talking to every possible agency with jurisdiction over this matter, we determined that there were no reliable statistics on missing and murdered Indigenous women. My team and I were justifiably stunned by this realization. Ultimately, I concluded the film with the following statement: "While missing person statistics are compiled for every other demographic, none exists for Native American women. No one knows how many are missing."

The appalling pervasiveness of missing and murdered Indigenous women is not unique to the Great Plains, nor is the Hollywood community immune. In 2014, the Blackfeet actress Misty Upham's body was found in a ravine outside of Auburn, Washington, a border town just outside of the Muckleshoot Indian Reservation. As with all missing and murdered Indigenous women, the circumstances are suspect. According to press reports, the conduct of the City of Auburn's law enforcement is equally disturbing in that police personnel appeared to have casually dismissed the family's concerns and failed to cooperate with the tribal community. I urge the Committee to read *The Guardian's* story on Misty's death - which can be found at the following link: [www.theguardian.com/global/2015/jun/30/misty-upham-native-american-actresstragic-death-inspiring-life](http://www.theguardian.com/global/2015/jun/30/misty-upham-native-american-actresstragic-death-inspiring-life). It is yet another classic case-study that demonstrates law enforcement's failure to bring justice for missing and murdered Indigenous women.

I recently met with Lailani Upham, a close relative of Misty and a respected journalist. She shared with me the story of her maternal grandmother who was raped and killed in the winter of 1953 on the Fort Belknap Indian Reservation. Her grandmother's rape and murder have never been investigated. Lailani recounted several other stories that were told to her about missing and murdered Indigenous women. In our conversation, I was heartened to learn that *Wind River's* portrayal of this terrible truth provided Indian people with an avenue to continue healing their communities.

I would like to thank "Natalie" and the Northern Arapaho and Eastern Shoshone Tribes of the Wind River Indian Reservation for trusting me to tell their story. The Wind River tribal leaders have expressed that my film *Wind River* is not just their story, but all Indian Country's story - which in itself is a tragedy. To be frank, it is a tragedy I had to make this movie in the first place.

While *Savanna's Act* addresses the data collection issue and serves to establish reporting protocols, there is a lack of jurisdictional clarity and cooperation between law enforcement agencies in Indian Country, which further exacerbates the problem. Such conflicts undermine obtaining any real justice for missing and murdered Indigenous women.

In recent conversations with the Crow and Standing Rock tribal leadership, they pointed out that while Congress may attempt to address these jurisdictional issues, they are not doing so fast enough. Tribes must be able to exercise their sovereign authority to protect their people, because one more missing woman is one too many. With every woman who goes missing, the Native community loses another future leader, future doctor, future teacher, another resource for which this community can lean against and look up to is gone. No problem can be solved until it is understood. Tribal governments need data to understand the problem, freedom from bureaucracy to investigate the problem, and the autonomy to combat the problem. I urge Congress to move quickly in order to rectify the data collection gaps and provide tribal leadership and local law enforcement with the resources needed to protect Indigenous women, and bring justice to those who have perpetuated violence upon them. It is impossible to move with enough haste - for as this testimony is being read, another Indigenous woman just disappeared.

At a recent event in Helena, Montana, I met Theda New Breast and Lucy Simpson. Theda has been active in national Indigenous women's issues for over 30 years and Lucy is the Executive Director of the National Indigenous Women's Resource Center ("NIWRC"). Theda recounted *Savanna's Greywind's* story to me, which felt heart-wrenchingly familiar and underscored the need for resources for nonprofit organizations like the NIWRC. The NIWRC is among a very small network of not-for-profit organizations leading the effort to bring awareness to the issue of missing and murdered Indigenous women. Lucy provided me with a detailed briefing on the vital work that the NIWRC does in Indian Country to end all forms of gender-based violence against Indigenous peoples. I urge the Committee and Congress to continue supporting organizations like the NIWRC and the important work that they are doing by enacting and funding legislation such as the *Victims of Crime Act*.

Finally, last year Congress passed Senate Resolution 60, a measure introduced by Senator Steve Daines (R-MT) and Jon Tester (D-MT), designating May 5, 2017 as the "National Day of Awareness for Missing and Murdered Native Women and Girls." It is time for Congress to take the next step by passing and enacting *Savanna's Act*. With the passage of *Savanna's Act*, the lives and voices of *Savanna Greywind*, *Misty Upham* and "Natalie" will not be silenced.

Of all responsibilities our government assumes, none is more urgent, more dire, and more necessary than the protection of the most vulnerable of our society. I am testifying to a segment of our society that couldn't be in more desperate need of that protection. And that protection begins by being accounted for – it begins by simply knowing how many Native American woman and girls have been and murdered and never found. I urge you – no, I beg you – pass *Savannah's Act*.



*Above: "It was so inspiring to meet Taylor Sheridan, Elizabeth Olsen and Jeremy Renner. They are supporting us to end violence against Native women.—Kristen Butcher, NativeLove Youth Ambassador 2017. Pictured: Jeremy Renner, Jacqueline "Jax" Agtuca (center) and, Kristen Butcher.*

*Below: December 9, 2017—The NIWRC, cast members, and the Tunica-Biloxi Tribe celebrated at a reception for Wind River in Beverly Hills. "The Tunica-Biloxi Tribe has been honored to be a part of the message that violence against women will not be tolerated. I believe it was providential that the first film to be released by Acacia Filmed Entertainment was Wind River with its focus on the abuse of Native women and young girls on some reservations."—Brenda Lintinger, Councilwoman of the Tunica-Biloxi Tribe*



# NIWRC Honoring and Fundraiser in Helena, MT

On November 2nd, 2017 the NIWRC had a Fundraiser & Honoring at the Montana Club in Helena, MT. The event was sponsored by the Montana Film Office, Elbe Law, the Indian Law Section of the Montana State Bar, and Taylor Sheridan's crew. With under 100 people in attendance, with special guests Taylor Sheridan and wife Nicole Sheridan. Donations received from the event, were matched by Taylor Sheridan, and went to support the work of the NIWRC and speakers addressed the work of NIWRC and missing and murdered indigenous women and girls of the US.



(On left) Lucy Simpson, Executive Director for the National Indigenous Women's Resource Center gave opening remarks and shared the work of the NIWRC. (Middle) NIWRC Board Vice Chair Carmen O'Leary, Lucy Simpson pose later in the evening with Taylor Sheridan and Nicole Sheridan. (On right) Theda New Breast, Master Trainer and a Wellness facilitator at Native Wellness Institute, and her mother talk share about murdered and missing women and give closing remarks.

## SAVE THE DATE



**February 12, 2018**  
**"Understanding the Crisis of Missing and Murdered Native Women"**  
 Capitol Visitors Center, Washington, DC  
 In coordination with Rep. Norma Torres (CA-D)

**REGISTER HERE:**  
<http://bit.ly/2DFhCOX>

**Schedule of Events:**

**5-6:00pm**  
**Reception (Atrium)**

**6:00pm**  
**Wind River film & panel**  
**(Congressional Auditorium)**

**Panel to Discuss**  
**Savanna's Act and**  
**other key pieces of**  
**legislation aimed at**  
**addressing missing**  
**and murdered Native**  
**women and girls.**



# Wind River Feature Film Tackles the Subject of Missing and Murdered Native Women

By Princella RedCorn, Communications Officer, NIWRC

## WARNING: Spoiler Alerts!

A dead, 18-year-old, Native American woman's frozen body is found on the *Wind River* Reservation. This scene is the catalyst for the story in *Wind River*, a feature film written and directed by Taylor Sheridan. How did she get out to the middle of the forest? Where are her shoes? Who is she? Was she murdered? Watching this murder mystery unfold, with background knowledge of the Violence Against Native Women movement, is full of anticipatory dread for what lies ahead. For those in the audience with no background knowledge of the movement, *Wind River* raises a general awareness surrounding the issue of missing and murdered indigenous women (MMIW) and touches on the complexities that tribal law enforcement face when seeking justice for victims.



"Hugh Dillon, Elizabeth Olsen, and Graham Greene star in *Wind River*."

*Wind River* hit theaters nationwide in early August of 2017. The storytelling is beautifully mastered, highly suspenseful, and classified as a thriller/murder mystery genre. While *Wind River* does raise awareness of relevant issues facing tribal communities, at its core, the story is about a non-Native man coming to terms with his own

missing and murdered Native daughter. Actor Jeremy Renner plays Cory Lambert, a veteran game tracker for the Fish and Wildlife Service. Lambert is separated from his Native wife Wilma, played by actress Julia Jones, after the mysterious death of their own teenage daughter years back.

In the opening of the film, Lambert finds Natalie, the dead Native woman, played by Kelsey Asbille Chow, as a part of his job tracking game in the wild. Actress Elizabeth Olsen plays Jane Banner, a young FBI agent sent to investigate the woman's death, who is clueless to the ways of an Indian reservation, tribal people, or any of the issues involved. In reality, U.S. Attorneys often decline to prosecute Indian Country crimes. Having both Lambert and Banner, non-Native characters, as the film's main characters, helps a non-Native audience relate and care about the story and "enter" the reservation, as complex issues are drawn out and briefly explained in the guise of unassuming entertainment. The film is a great educational tool to get a general audience interested in the issue of MMIW, but needs more context and open dialogue, post-viewing, to fully understand the issues that were raised in the film as well as learn about what positive solutions are happening.

As Lambert and Banner investigate Natalie's disappearance and death, the jurisdictional maze of tribal, state, and federal law enforcement begins to appear. In the morgue scene, the coroner describes Natalie's cause of death to Agent Banner. It's similar to watching a crime scene investigation (CSI)

TV show, and then it hits; this is a Native woman they are describing and this kind of scene happens in real life. Natalie's cause of death is explained to be from exposure to natural elements and she has also been raped. Agent Banner explains if Natalie died from exposure then she, as an FBI agent, can no longer take on the case. Banner can only investigate as an FBI agent if Natalie had been murdered.



"Jeremy Renner and Gil Birmingham star in *Wind River*."

After following the clues, it is revealed that Natalie had a non-Native boyfriend who happened to work at an oil-drilling rig near the reservation. The mention of an oil rig raises a red flag for those familiar with violence against Natives and the national movement to end such violence. Natural resource extraction sites, on or near reservations, is a common hot spot for increased activities of abuse and sexual violence toward Native women and Native youth. Referred to as "man camps," these temporary dwelling communities house short-term workers, with high-paying wages.

It is at the oil rig man camp on the *Wind River* Reservation that a jurisdictional boundary war takes center stage in the film. Tribal police, state police, and oil rig



workers all come to a standstill, guns drawn, pointing towards one another, in an all-too-real power struggle for authority. The tribal police are disrespected and brushed off as not having any power/jurisdiction to dictate orders to the oil rig workers, who point out that they are on leased land, not tribal land, meaning they do not have jurisdiction. Agent Banner herself calms the tense situation, by waving her FBI badge, beating jurisdiction of all involved, and demanding access to the man camps. This theme of struggle for power and control is present in the next scene, as the mystery of Natalie's death is revealed.



Agent Banner is granted access to the living quarters of oil rig workers and the power of writer and director Sheridan's storytelling is revealed. **Take note at this point in the film, current victims and survivors of rape and sexual assault could become re-traumatized.** A young and beautiful Natalie stands at the door to the living quarters, paying a surprise visit to her boyfriend Matt, played by actor Jon Bernthal. There are gut checks and heart-wrenching moments as events leading to Natalie's rape and her ultimate death unfold on screen. The danger of the man camps comes full force as the men begin attacking one another, in utter lawlessness. It is important to include here the foundational understanding that national experts agree upon—that power and control is at the root of sexual assault and domestic violence. The rape scene perfectly exemplifies this.

The rape of a Native woman on screen is unbearable to watch. Was it necessary to show? No, if used only for pure entertainment purposes. Sure it can render uncomfortable emotions in the audience, but do the violent realities lived by Native women and children really sink in? Does it create impact and call to action on the audience besides pure entertainment? And yes, it is a necessary evil to show, if taking into account the wide scope of the potential audience who will watch this film and see an entertaining entryway into the issues, and if the film succeeds at holding a mirror up to perpetrators of violence and to citizens of a country that has had a policy of genocide of Native people and culture. At best, the audience walks away from this film informed and ready to make decisions to help end violence against Native women by helping to protect our women, respect and empower tribal sovereignty, and equip and build the capacity of our tribal police with resources necessary to ensure justice.

The rape scene manifests the uncomfortable reality of sexual assaults that Native women and youth have endured at substantially higher rates than any other minority group across the United States. As the National Indigenous Women's Resource Center has stated from various reports, *one in three Native women will be raped in their lifetime, and three in five will be physically assaulted. Native women are more than twice as likely to be stalked than other women and, even worse, Native women are being murdered at a rate ten times the national average.* Sheridan the writer and director has stated, "It (tribal reservation) is a place where addiction and murder kills more than cancer, and rape is considered a rite of passage for girls on the cusp of womanhood. No place in North America has changed less in

the past century, and no place in America has suffered more from the changes that have taken place."

The film ends with vigilant form of justice served by Lambert. In reality, majority of the missing and murdered cases of Native women often go unresolved and uninvestigated, similar to the backlog of untested rape kits in the nation. This is the bleak and depressing reality. The ending scene states, *"While missing person statistics are compiled for every other demographic, none exist for Native American women. No one knows how many are missing."* People need to have stories to relate to and humanize any issue. *Wind River* successfully humanizes missing and murdered Native women and the challenges of protecting and seeking justice for them. Missing from this narrative is the heart and healing power of Native women's voice, the tireless, all-inclusive, and solution-driven work. This side of the story is ready to be addressed in future stories from and by Native women writers and directors who can materialize their voice, vision, and truth on film.

Culture is at the core of who we are and Native women are at the forefront, seeking justice through inclusive and healing ways such as engaging men, prayer circles, traditional healing practices and ceremonies, and relying on traditional Native culture for strength, healing, and resilience in the uphill battle for respect and treating women as sacred. Perpetrators of sexual and domestic violence, Native and non-Native, deserve accountability for their actions. Victims deserve justice, legally and culturally. Survivors deserve healing and support.

**WATCH: *Wind River* trailer at <http://imdb.to/2h1da1P>**

# Tribal Community Response When a Woman Is Missing: A Toolkit for Action

Coping with the disappearance of a loved one or community member is very difficult. The fact that American Indian and Alaska Native women experience higher rates of domestic violence and sexual assault than any other population of women in the United States has broad ramifications. One consequence of this reality is that domestic and sexual violence occurs on a spectrum of abusive behavior and can include abduction and murder. If a woman you know is missing, taking immediate action is very important. The quicker you respond, the faster she may be located and provided the help needed.

## **Is the disappearance voluntary?**

One important factor to consider in preparing to respond is whether the disappearance is voluntary. A woman may be missing because she intentionally decided to cut ties to family and friends to avoid future harm to herself and loved ones. A woman may have decided, based on their specific circumstances, that the safest option is to leave and place herself, and possibly children, beyond the reach of her abuser. Disconnecting from family, friends, and community is a dramatic and life-changing decision and does not occur without significant reasons, one of which may be prevention of further abuse.

## **Missing because of force and violence?**

The harsh reality is that many Native women who are victimized by domestic violence disappear, are abducted, or are murdered by their abusers. The Department of Justice reports that Native women are stalked and murdered at higher rates than other populations of women in the United States.

The lack of adequate law enforcement in tribal communities increases the importance of communities being informed and prepared to immediately respond to a disappearance. The following actions may increase awareness of the steps to take and help prepare tribal communities to respond during this very difficult time.

## **Why develop a response before confronted with a disappearance?**

The disappearance of every Native woman requires an immediate response. The hours and minutes following a disappearance count. In order to respond immediately to a disappearance, it is recommended that advocacy programs develop a protocol ahead of time for when a woman goes missing. The development of a protocol will allow programs to

understand how to contact law enforcement agencies and other important steps. In developing a protocol, programs and organizations might consider the actions, issues, and concerns discussed below.

## **Should law enforcement be contacted? By phone or in-person?**

Contact the local law enforcement where the disappearance occurred as soon as possible. The law enforcement agency will differ from tribe to tribe and in some cases multiple agencies will need to be contacted. This might include tribal law enforcement, the Bureau of Indian Affairs, the FBI, county police, and in Alaska the village public safety officer and state trooper, or a combination of these agencies. In addition, based on the circumstances, notifying tribal law enforcement in the home community of the missing woman might also be important. While many Native women live away from the community they consider home, they stay in touch and reach out to family and friends. When contacting law enforcement, provide as much detail as possible that could help establish the identity of the missing person. Write down the names of the people you speak to and request copies of any documents completed, including the missing persons report.

## **Why document and track events? Dates and times are important**

The steps you take and contacts you make with law enforcement are very important to document. Keeping a journal will help you remember conversations with law enforcement and other agencies. This process makes an already difficult situation less stressful, and writing down the dates and times, names and telephone numbers of everyone you speak to will be highly valuable. It is also recommended to complete a calendar at the end of each day of the events or developments.

### **Why issue an alert?**

**A press release, radio announcement, Facebook post can alert the community**

Informing, maintaining, and increasing public awareness of the disappearance is very important. The alert, bulletin, or flier circulated broadens the number of people who can help locate the missing woman. The alert should provide basic information about the person and how to report any information to the law enforcement agency or community member serving as a contact person.

### **Why organize community actions?**

**A vigil, search, justice walk, or march provides a positive anchor for family and community to support the woman who is missing**

Many tribal communities are closely related and organized based upon family relationships and clans with long histories dating back over generations. Respect, prayer, and ceremonies are strengths of tribal communities, and often vigils and similar

events are held for the person who has disappeared. These actions also support the family and those left behind during a very difficult time. Justice walks and marches are common in the effort to increase the response of law enforcement and also hold local and federal law enforcement accountable for, in some cases, a failed response. In the disappearances of many Native women, it has been the families or community members who have conducted a search for their loved one. Unfortunately, in some cases, the walks and marches for justice are the only closure a family might have after a Native woman goes missing.

### **Take care of yourself and loved ones**

In organizing to respond to issues concerning missing and murdered indigenous women, NIWRC encourages each person to remember self-care. Addressing the reality of missing and murdered American Indian and Alaska Native women is very difficult and can create high levels of stress. Stay connected to friends and family. Rely on your tribal beliefs and practices for support as a foundation for these efforts.



## **Important Steps to Take When a Native Woman Goes Missing**



# Senate Committee on Indian Affairs Holds Hearing to Review Urgent Legislation



The everyday injustices committed against Native women have focused the Senate Committee on Indian Affairs (SCIA) on addressing this crisis facing Indian nations. On October 25, 2017, the SCIA held a legislative hearing to receive testimony on three bills intended to assist Indian tribes in responding to these injustices. The bills SCIA received testimony on included the SURVIVE Act (S. 1870), the Savanna's Act (S. 1942), and the Reauthorization of the Tribal Law and Order Act of 2010 (S. 1953). Carmen O'Leary, the Executive Director of the Native Women's Society of the Great Plains, provided the following testimony addressing the urgent need to address the crisis of violence against Native women.

Good Afternoon Senators. On behalf of the Native Women's Society of the Great Plains I would like to thank you for the invitation to present testimony on these important Senate bills. First I want to say each bill is of extreme importance to the everyday safety of Native women and the ability of Indian tribes to protect women. These Senate bills remove certain barriers and increase the ability of Indian tribes to respond to these crimes and provide new options for Federal law enforcement agencies to respond to violence against Native women. Given the time restrictions of today's hearing I will limit my comments to certain key provision.

I do want to begin however saying that the crisis we face in the levels of violence committed against Native women is well documented. In 2016, the National Institute of Justice (NIJ) published a report that again highlights that more than 4 in 5 American Indian and Alaska Native women (84.3%) have experienced violence in their lifetime. The violence committed against these women included sexual and physical violence, stalking, and psychological abuse. The NIJ reports

- 56.1% experienced sexual violence
- 55.5% experienced physical violence by an intimate partner
- 48.4% experienced stalking, and
- 66.4% experienced psychological aggression by an intimate partner

## **The SURVIVE Act (S. 1870) Securing Urgent Resources Vital to Indian Victim Empowerment Act**

For over 10 years, the National Congress of American Indians Task Force, advocates, and tribal leaders have requested the creation of a permanent dedicated funding stream under the Victims of Crime Act. The concerns of the NCAI Task Force are based on the following information from the United States Department of Justice:

- Between the years of 2011-2014, programs that served American Indians/Alaska Native survivors of violent crimes received less than 0.5% of the CVF annually.
- In 2013, more than 60% of states with Indian tribes did not make a single sub grant. As a result, Native communities and survivors of violent crimes received little assistance.

With the high rates of violence against Native women Indian tribes and tribal programs need the necessary resources to provide basic services such as safe

shelter, rape crisis services, and advocacy for Native women who on many tribal reservations have no services. In addition, Native women need immediate and long-term counseling and medical services due

to the multiple victimizations committed against them by a single or multiple abusers. And sadly for those families traumatized by having a missing or murdered relative they often need assistance with transporting their loved one home and with burial. It is a travesty of justice that Indian tribes with the highest rates of victimization do not have direct access, a dedicated tribal funding stream, under the Victims of Crime Act. Senate Bill 1870 will address this longstanding injustice by directing that 5% of the total annual outlays from the Crime Victims Fund (CVF) be provided to Indian tribes.

### **The Savanna's Act (S. 1942)**

To organize and respond to an injustice, it must first be acknowledged and understood. The Native Women's Society of the Great Plains has worked for the last 5 years to increase awareness of this issue. We have supported community justice walks, have a Facebook page dedicated to missing and murdered Native women, and honor Native women who have been murdered by creation of miniature traditional dresses. There are so many women who have gone missing or have been murdered it is truly a crisis facing Indian tribes.

**"There is a great need to review, revise, and develop protocols on missing and murdered Native women."**



In October of 2016, the National Congress of American Indians (NCAI) passed a resolution to address the crisis of missing and murdered Native women and girls urging the federal government, with agencies including but not limited to the Departments of Justice, Interior, and Health and Human Services, to take action including:

- To review, revise, and create law enforcement and justice protocols appropriate to the disappearance of Native women and girls, including inter-jurisdictional issues;
- To provide increased victim services to the families and community members of the disappeared or murdered Native woman such as counseling for the children of the disappeared, burial assistance, and community walks and healing ceremonies;
- Coordination of efforts across federal departments to increase the response to the disappearance or murder of Native women and girls; and
- Coordinate efforts in consultation with Indian tribes' efforts to increase the response of state governments, where appropriate, to cases of disappearance or murder of Native women or girls.

These were fundamental steps toward responding to the crisis we face on a daily basis in lost lives. S. 1942 addresses necessary steps in responding to the crisis we face as Native women continue to go missing and are murdered. This year the Senate passed a resolution declaring May 5, 2017, as a National Day of Awareness for Missing and Murdered Native Women and Girls. I thank you for your support for the National Day of Awareness and can say the first national day of awareness reached millions of people across the United States and the world through social media platforms.



**“Social media impressions related to the National Day of Awareness for Missing and Murdered Native Women and Girls numbered approximately 8.5 million.”**

This public call for increased awareness is indicative of the extent of the reality that Native women go missing on a daily basis often without any response by law enforcement. I support the changes S. 1942 will make and would also like to suggest inclusion of field hearings on missing and murdered Native women to allow tribal communities the opportunity to share their losses and recommendations of how to improve the justice response to these cases.

### **Reauthorization of the Tribal Law Order Act of 2010 (S. 1953)**

The Tribal Law and Order Act (TLOA) was an historic bill we as advocates

celebrated because we recognized the need to create law enforcement reform for American Indian tribes. The most significant change being restoring the authority of Indian tribes to sentence offenders for more than a maximum of one year per crime. TLOA also has many other important provisions and I would like to address several.

**Federal Accountability.** Section 201 of the TLOA requires U.S. Attorneys to coordinate with tribal justice officials on the use of evidence when declining to prosecute or refer a reservation crime. Sharing of this type of information is critical to keeping Indian women safe. Tribal officials need to be notified when a U.S. Attorney declines to prosecute sexual assault and domestic violence cases so that, in the case of an Indian defendant, a tribal prosecution may proceed, or in all other cases, tribes can at least notify the victim of the status of the case so that the victim may take the necessary steps for protection. I

recommend U.S. Attorneys do more to increase coordination and reporting duties with tribal justice officials under the TLOA.

### **Enhanced Tribal Sentencing Authority.**

Section 304 of the TLOA grants tribal courts the ability to sentence offenders for up to 3 years' imprisonment for any one offense under tribal criminal law if certain protections are provided. This is a significant improvement, although this maximum sentence still falls short of the average sentence of 4 years for rape in other jurisdictions. Indian tribes must have the capacity to house the offender in detention facilities that meet federal standards; otherwise, the enhanced sentencing power is meaningless. It is very important the Bureau of Prisons Pilot Project is reauthorized.

**Prisoner Release and Reentry.** Section 601 of the TLOA requires the U.S. Bureau of Prisons to notify tribal justice officials when a sex offender is released from federal custody into Indian country. It is absolutely essential that tribal justice officials are notified of prisoner release and reentry on Indian lands, regardless of the process by which this occurs. Proper implementation of this provision is critical to the safety of Indian women.

These are just some of the provisions within the TLOA that will help protect the safety of Native women. Again, I thank you for the opportunity to testify on these important Senate Bills.

**Carmen O'Leary**  
**Executive Director**  
**Native Women Society of the Great Plains**

## ***Savanna's Act (S. 1942) Summary***

**On October 5, 2017, Senator Heidi Heitkamp (D-ND) introduced Savanna's Act, which would address the number of missing and murdered American Indian and Alaska Native women in the United States.**

**Heitkamp introduced the bill after Savanna LaFontaine-Greywind was found tragically murdered and her new born baby found in the possession of her killers.**

**The bill would improve tribal access to federal crime information databases, such as NCIC, and would create data fields relevant to the Native population. The bill also calls on law enforcement agencies to create standardized protocols across jurisdictions to address the issue of missing and murdered and requires an annual report to Congress.**

**The bill has bipartisan support in the Senate Committee on Indian Affairs, and as of the date of this update, nine cosponsors. Additionally, there is an identical companion bill in the House (H.R. 4485), introduced by Rep. Norma Torres (D-CA-35). As of January 9, 2018, H.R.4485 was referred to the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations.**

# SURVIVE Act for Tribal Victim Services Includes a 5% Tribal VOCA Funding Stream

In 2017, Senator John Hoeven (R-ND), chairman of the Senate Indian Affairs Committee, introduced S. 1870, the Securing Urgent Resources Vital to Indian Victim Empowerment (SURVIVE) Act. The goal of SURVIVE is to improve public safety in tribal communities and strengthen resources for Indian victims of crime. Momentum continues to grow for passage of SURVIVE in 2018.

The SURVIVE Act, which is cosponsored by Senators John McCain (R-AZ), Heidi Heitkamp (D-ND), Catherine Cortez Masto (D-NV), Steve Daines (R-MT), Jon Tester (D-MT), John Barrasso (R-WY), Lisa Murkowski (R-AK), Tom Udall (D-NM) and Patty Murray (D-WA) will increase needed tribal victim assistance by creating a tribal grant program within the Department of Justice's Office for Victims of Crime (OVC). The bill directs that 5% of the total annual outlays from the Crime Victims Fund (CVF) be provided to Indian tribes. In addition, to ensure that tribal governments are able to access CVF resources on a footing equal to state and territorial governments, the bill empowers tribes and Indian victims of crime by:

- Expanding the types of victim assistance, services, and infrastructure for which the funds may be used, including domestic violence shelters, medical care, counseling, legal assistance and services, and child and elder abuse programs;
- Providing for significant confidentiality and privacy protections for crime victims to feel safe when receiving services;
- Enabling tribes to deliver critical, culturally tailored victim services; and
- Increasing the resources available to Indian crime victims from the CVF without increasing overall spending.

**It is estimated that less than 0.5% of the CVF reaches Indian tribes, despite federal data showing that Indian tribes face some of the highest victimization rates in the country.**

## Increased Resources to Address Violence Against Native Women

Violent crime victimization on tribal lands is significantly higher than in the rest of the United States. DOJ has found that murder rates of American Indian women on some reservations are ten times the national average. A 2016 NIJ survey found that:

- More than four in five American Indian and Alaska Native adults (83%) have experienced some form of violence in their lifetime.
- Among American Indian and Alaska Native women, 55.5% have experienced physical violence by intimate partners in their lifetime, and more than 1 in 12 have experienced it in the past year.
- More than half of American Indian and Alaska Native women (56.1%) have experienced sexual violence in their lifetime.

The NIJ study also found that Native victims are more likely to be injured as a result of their violent victimization, more likely to need services, and are significantly less likely to have access to services compared to their non-Native counterparts.

## Victims of Crime Act (VOCA)

The VOCA was enacted in 1984 and established the Crime Victims Fund (CVF) to support services and compensation for victims of crime. The CVF is unique in that it is funded only through the collection of criminal fines, forfeited appearance bonds, penalties, and assessments. These dollars derive from offenders convicted of federal crimes and resulting fines and penalties; not taxpayers.

While Congress does not appropriate funds for VOCA, it does determine how much can be released or distributed each year from the CVF. Under the current system, it is estimated that less than 0.5% of the CVF reaches Indian tribes, despite federal data showing that American Indian and Alaska Native communities face some of the highest crime victimization rates in the country. For more than 10 years, the National Congress of American Indians Task Force, advocates, and tribal leaders have requested a permanent fix to this disparity.

The SURVIVE Act brings us within reach of these lifesaving resources. Furthermore, the tribal funding stream recognizes the unique status of Indian tribes as sovereign entities and reflects the federal government's trust responsibility to Indian tribes.



# The Relationship of the SURVIVE Act and the Victims of Crime Act

Unlike states and territories, Indian tribes do not have a tribal dedicated funding stream under the Victims of Crime Act (VOCA). The SURVIVE Act (S. 1870) will address this longstanding injustice by directing 5% of the total annual outlays from the Crime Victims Fund (CVF) to Indian tribes. The 2013 balance of the CVF was over \$13 billion.

## Overview of VOCA

The idea behind the Act was that money collected by the government from criminals should be utilized to help crime victims. VOCA dollars are primarily distributed to support two important types of programs:

- Crime victim compensation programs, which pay many out-of-pocket expenses incurred by crime victims (including medical costs, mental health counseling, funeral and burial costs, and lost wages or loss of support); and
- Victim assistance programs, which provide victims with support and guidance in the aftermath of crime(s), including but not limited to crisis intervention, counseling, emergency shelter, criminal justice advocacy, and emergency transportation.

Under VOCA, each state and territory receives a dedicated annual amount for the above purposes. Formula grants to states and territories are based largely on population. Of the total amount allocated for state victim assistance grants, each state receives a base of \$500,000 (\$200,000 for territories), and the remainder is distributed to each state and territory proportional to population.

## VOCA Is Generally Not Available to Indian Tribes

Tribes were not included in the 1984 VOCA legislation. As a result, there is no dedicated VOCA tribal funding stream for Indian tribes to compensate and provide assistance to tribal crime victims. Rather, tribes must access these funds through one of two grant sources. The first is what is known as a pass-through from the state where the tribe is located. The second is by competing for very limited grant resources that the Department of Justice administers under the Children's Justice Act and the Office for Victims of Crime (OVC) discretionary grants. These small discretionary grant programs cannot be compared to the current state formula program.

## S. 1870, the Securing Urgent Resources Vital to Indian Victim Empowerment (SURVIVE) Act

American Indian and Alaska Natives experience the highest crime victimization rates in the country, but are largely left out of VOCA-funded programs. Since 2003, the NCAI Task Force has recommended that Congress create a funding stream within the CVF for Indian tribes. The NCAI resolution concerns are based on the following information from the United States Department of Justice:

- Between the years of 2011-2014, programs that served American Indians/Alaska Native survivors of violent crimes, received less than 0.5% of the CVF annually.
- In 2013, more than 60% of states with Indian tribes did not make a single sub grant. As a result, Native communities and survivors of violent crimes received little assistance.

For more than 10 years, the National Congress of American Indians Task Force, advocates, and tribal leaders have requested a permanent fix to this disparity. In the last three years, Congress has considered amending the VOCA to address this

**"Now is the time to make sure that crime victims in tribal communities have access to the crime victim assistance and compensation that they desperately need. Creating a dedicated tribal funding allocation from the CVF would provide a stable source of funding for Indian tribes to develop the victim's services infrastructure that is taken for granted in much of the rest of the country."**

**–NCAI Written Testimony, SCIA Oversight Hearing, Victim Services in Indian Country**

issue. In 2015, Senator John Barrasso, Senator Jon Tester, and other bipartisan Senators on the Indian Affairs Committee worked to introduce the SURVIVE Act to direct 5% of the overall CVF disbursements to tribal governments with the expressed purpose of meeting the needs of crime victims on tribal lands. In 2016, Representative Mike Honda (prior D-CA) and Tom Cole (R-OK), worked together to pass an amendment to the House Commerce, Justice and Science appropriations bill for FY 2017, directing 5% of the CVF to tribal governments. In 2017, Senator John Hoeven (R-ND), chairman of the Senate Indian Affairs Committee, introduced S. 1870, with support of 10 co-sponsors.

## FY 2017 VOCA Distribution Is \$2.5 Billion

During the past two years, Congress has more than tripled outlays from CVF, which reflects Congress's commitment to provide services to victims of crime. For FY 2017, the VOCA cap was set at \$2.5 billion. Even with the above documented increases, the FY 2017 distribution did not include a dedicated stream for tribes. Furthermore, tribes and American Indian/Alaska Native survivors have not been given any access to these increases.

# VAWA 2005 Funding to Support Tribal Access Program for National Crime Information (TAP)

The repurposing of funding allocated under VAWA 2005 to create a tribal sex offender and protection order registry is under consideration. Since the passage of the VAWA tribal in 2005, tribal leaders have raised concerns regarding the failure of DOJ to implement this provision.

“DOJ’s Office on Violence Against Women initiated consultation with Indian tribes several years ago to discuss the possibility of using the unexpended appropriations for the TAP program. In response, tribal leaders expressed their frustration that the unexpended funds had not been used for their original purposes—to build national tribal protection order and sex offender registries—and stressed that for the Tribal Access Program (TAP) to be a meaningful substitute, it had to be available to all tribal courts that are issuing protection orders. It is our understanding based on these consultations, that the transfer of the registry funds would allow DOJ to remove current eligibility restrictions for the TAP program that are excluding many tribes in Alaska and California.”—Jacqueline Pata, Executive Director, National Congress of American Indians

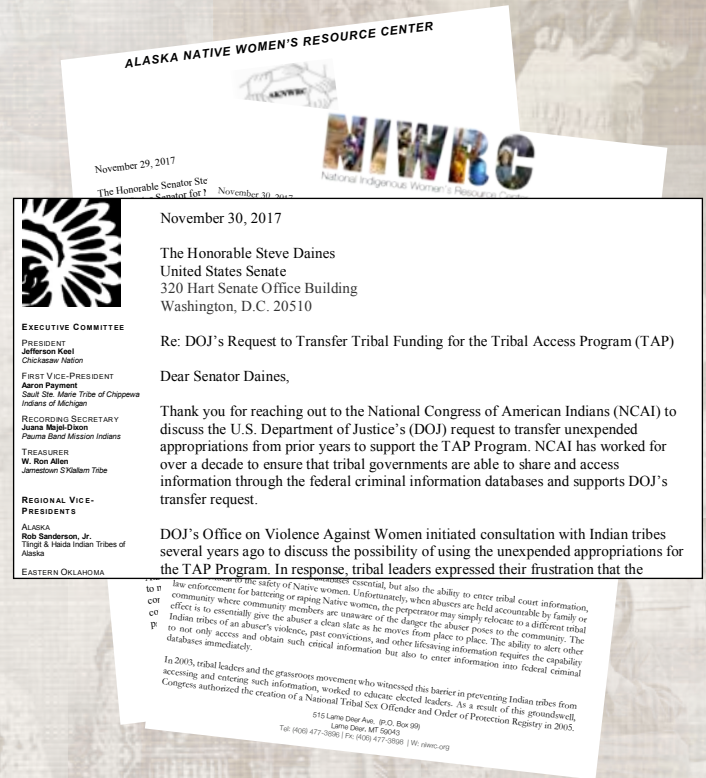
## Tribal Access to Federal Criminal Databases Is Essential to Safety

Tribal law enforcement access to federal criminal databases is a foundational element of an effective law enforcement response to tribal victims of domestic violence, sexual assault, and other VAWA-related crimes. The NCIC maintains 21 national data files many of which are directly related to the emergency response of tribal law enforcement to assist victims. Law enforcement responding to a domestic violence incident with NCIC access can verify a protection order, whether the suspect is a convicted sex offender in violation of registration requirements, is prohibited from possessing firearms, has an outstanding warrant, or is in violation of terms of parole. In addition to enhancing the immediate response of law enforcement by providing essential information to alert tribal justice officials of an individual’s status, tribal entries of certain misdemeanor domestic violence convictions could trigger federal felony charges such as the Federal

**“The Attorney General shall ensure that tribal law enforcement officials that meet applicable federal or state requirements be permitted access to national crime information databases.” VAWA 2005**

Tribal Habitual Offender. Lastly, actual full access by tribal law enforcement to NCIC is essential to the safety of officers whose daily duties often place them in dangerous situations.

Not only is access to NCIC federal databases essential, but also the ability to enter tribal court information, which is critical to the safety of Native women. Unfortunately, when abusers are held accountable by family or law enforcement for battering or raping Native women, the perpetrator may simply relocate to a different tribal community where community members are unaware of the danger the abuser poses to the community. The effect is to essentially give the abuser a clean slate as he moves from place to place. The ability to alert other Indian tribes of an abuser’s violence, past convictions, and other lifesaving information requires the capability to not only access and obtain such critical information but also to enter information into federal criminal databases immediately.



## Repurposing of VAWA Tribal Registry Funds

In 2003, tribal leaders and the grassroots movement who witnessed this barrier in preventing Indian tribes from accessing and entering such information, worked to educate elected leaders. As a result of this groundswell, Congress authorized the creation of a National Tribal Sex Offender and Order of Protection Registry in 2005 and funding of \$1,000,000 million per FY 2007-2011. These funds remain unspent and Congress has not appropriated additional funding since 2011.

The tribal registry was intended to make available lifesaving information to protect Native women and their tribal communities from such offenders. It directed the Attorney General to contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain a national tribal sex offender and tribal protection order registry. The tribal registry was to provide all federally recognized Indian tribes the ability to enter lifesaving information into a national registry. A separate tribal registry was viewed as necessary because administrative barriers delayed and prevented the inclusion of tribal data into the National Sex Offender Public Registry and the National Order of Protection Registry.

Since passage of this provision under VAWA in 2005, the USDOJ has not implemented the provision creating the tribal registry. By statute the funds appropriated are “to remain available until expended” and can only be used for the creation of the tribal registry. Thus for these funds to support the TAP a statutory amendment repurposing the funds is required.

Following passage of the tribal registry provision, the Adam Walsh Act became law, further complicating the issue of the participation of Indian tribes in a national sex offender registry. All Indian tribes located in states having been granted concurrent jurisdiction with Indian tribes under PL 280 or similar jurisdiction cannot operate a tribal sex offender registry under the Sex Offender Registration and Notification Act (SORNA), which is a key component of the Adam Walsh Act. Currently, many of these state governments are not in compliance with SORNA, which negatively impacts the ability of the Indian tribes located in these states to register sex offenders under SORNA.

**“Tribal information entry into national registries that is prevented, restricted, delayed, or inaccurate can place a Native woman at immediate risk. The repurposing of the tribal registries funds to support the increased participation of additional Indian tribes under TAP will remove the barriers preventing certain Indian tribes from protecting Native women and enhance the safety of Native women.”**

**–Lucy Simpson, Executive Director,  
National Indigenous Women’s  
Resource Center**

It is important to note that VAWA 2005 amended the federal code to require the Attorney General to permit Indian law enforcement agencies, in cases of domestic violence, dating violence, sexual assault, and stalking, to enter information into, and obtain information from, federal criminal information databases. Passage of the Tribal Law and Order Act (TLOA) in 2010 amended the law once more to provide that “the Attorney General shall ensure that tribal law enforcement officials that meet applicable federal or state requirements be permitted access to national crime information databases.” This again confirmed Congress’s intent that tribal law enforcement be granted full access to federal criminal information databases. Under the TLOA amendment, Congress broadened tribal access beyond the four crimes specified under VAWA 2005. While TAP is a significant step toward implementation of these provisions, at this time it is not available to all Indian tribes opting to participate and particularly restricts access to Alaska Native Villages, many of which lack law enforcement.

Numerous Indian tribes and national tribal organizations support the repurposing of the funds including the National Congress of American Indians, the National Indigenous Women’s Resource Center, and the Alaska Native Women’s Resource Center. Understanding that

all Native women should be provided the same protections supporters of repurposing recommend that access and participation under TAP be made available to all Indian tribes.

*“While we are enthusiastic to hear that the TAP program is being considered for expansion and it makes sense to use the unused funds from the Tribal Registry, we think it relevant that we provide information about the unique character of Alaska and as a result of how TAP in its current form, 228 out of the 229 tribes in Alaska would be left out, hence 40% of the nation’s tribes. Thus, a large percentage*

*of Indian tribes under the current system are delayed the direct ability to enter and access information regarding protection orders and sex offenders. Therefore, specifically including all Alaska tribes as eligible for the TAP program should be considered.”*–Tami Truett Jerue, Executive Director, Alaska Native Women’s Resource Center

# International Update

By Jana L. Walker, Christopher Foley, and Karla General,  
Attorneys, Indian Law Resource Center



## United Nations decides to continue consideration of how to enhance indigenous participation

On September 8, 2017, the United Nations General Assembly adopted resolution titled “enhancing the participation of indigenous peoples’ representatives and institutions in meetings of relevant United Nations bodies on issues affecting them” (A/RES/71/321). The resolution is a result of commitments made at the 2014 World Conference on Indigenous Peoples, where member states decided to consider ways to enable indigenous participation at the UN.

Although the resolution is an important development, it is something of a disappointment. After many rounds of consultations among indigenous peoples and member states, and months of states-only negotiations, states failed to reach agreement on the technical details of how to create a new status for indigenous governments. Instead, the resolution decides to delay substantive action until the General Assembly’s 75th session (2020-2021). In the interim, a calendar of regional consultations and interactive hearings among UN representatives, indigenous peoples, and member states has been proposed for the next several years. The first of these interactive hearings is expected to take place on the sidelines of the 17th session of the Permanent Forum on Indigenous Issues that is scheduled for April 16-27, 2018.

For more information, see <http://indianlaw.org/implementing-undrip/effort-provide-indigenous-governments-permanent-place-un-stalls>.

## New Report by the Inter-American Commission on Human Rights focuses on the Human Rights of Indigenous Women in the Americas

The Inter-American Commission on Human Rights has published an important new report, *Indigenous Women and Their Human Rights in the Americas*, based on information from indigenous women and leaders. The report, which shines a spotlight on the human rights of indigenous women in the Americas, discusses the forms of discrimination faced by indigenous women and how discrimination increases their exposure to violence and limits their access to justice and to their economic, social, and cultural rights. Among other things, the Commission’s report includes guiding principles and recommendations to help states in preventing and responding to these ongoing human rights violations affecting indigenous women.

Read the full Report on Indigenous Women and Their Human Rights in the Americas: [www.oas.org/en/iachr/reports/pdfs/IndigenousWomen.pdf](http://www.oas.org/en/iachr/reports/pdfs/IndigenousWomen.pdf)

## Looking Ahead UN Commission on the Status of Women

During its 62nd session, the Commission’s priority theme will be “challenges and opportunities in

achieving gender equality and the empowerment of rural women and girls,” and the review theme will include “participation in and access of women to the media, and information and communications technologies and their impact on and use as an instrument for the advancement and empowerment of women.” The session will be held at UN headquarters in New York City on March 13-24, 2018. The Indian Law Resource Center, National Congress of American Indians, and National Indigenous Women’s Resource Center will host a CSW 2018 parallel event on March 19. The event will screen scenes from the feature film *Wind River* followed by an expert panel discussion about violence against indigenous women in rural America on the sidelines of the Commission’s session.

## UN Permanent Forum on Indigenous Issues

The Permanent Forum, an advisory body to the UN Economic and Social Council will hold its 17th session at UN headquarters in New York City on April 24-May 5, 2018. The Permanent Forum’s theme will be “Indigenous peoples’ collective rights to lands, territories, and resources.” The Permanent Forum also will address follow-up to the outcome document of the World Conference on Indigenous Peoples, including but not limited to enhancing participation of indigenous peoples at the United Nations.

## UN Human Rights Council

The Human Rights Council works to enhance the promotion and protection of human rights and to investigate human rights violations. During its 38th session in Geneva on June 18-July 6, 2018, the Council is expected to hold a day-long discussion on women’s rights.



# Human Rights Council Review

## Improved Mandate for the UN Expert Mechanism on the Rights of Indigenous Peoples

By Jana L. Walker and Christopher Foley  
Attorneys, Indian Law Resource Center

In 2007, the UN Human Rights Council established the Expert Mechanism on the Rights of Indigenous Peoples as a subsidiary body to provide expert advice to the Council on the rights of indigenous peoples. In the Outcome Document of the 2014 World Conference on Indigenous Peoples, the UN General Assembly recognized the urgent need to establish a body to monitor implementation of the UN Declaration on the Rights of Indigenous Peoples and called on the Human Rights Council to review existing mandates, particularly that of the Expert Mechanism, to more effectively promote respect for the Declaration, including by "assisting member states to monitor, evaluate, and improve achievement of the ends of the Declaration." After several consultations with indigenous peoples, in September 2016 the Council responded by adopting a revised and improved mandate for the Expert Mechanism.

### **New mandate increases independence and capacity**

This new mandate significantly increases the Expert Mechanism's independence and capacity to serve as an effective implementing and monitoring body for the Declaration. Previously, the Expert Mechanism's primary job was to prepare research reports on topics assigned to it by the Council. While useful, the body was not able to act independently to determine the topics for its studies nor to respond to issues related to indigenous peoples' rights.

Its new mandate guarantees independence, authority, and expertise to make a real difference in the implementation of indigenous peoples' rights around the world. This article highlights seven key aspects of the new

The expanded mandate provides the Expert Mechanism with the tools necessary to monitor implementation of the rights in the Declaration and to function as an investigative, fact-finding body. However, indigenous peoples also need to demand that the Expert Mechanism make the most of the powers it now has.

mandate to inform advocates about the scope of the Expert Mechanism's authority and to suggest ways to use the Expert Mechanism to secure indigenous peoples' rights, including indigenous women's right to live free of all forms of violence and discrimination.

### **Annual study on the status of the rights of indigenous peoples globally**

First, the Expert Mechanism is authorized to complete an annual study on the status of the rights of indigenous peoples globally. The study must focus on issues related to rights in the Declaration, and must consider challenges, good practices, and recommendations from member states and indigenous peoples. In addition, the Expert Mechanism must issue a report to the Council on good practices and lessons learned regarding efforts to achieve the goals identified in the Declaration. The topics for these reports are now determined by the Expert Mechanism, and indigenous peoples and others are able to submit suggestions or recommendations for these topics to the Expert Mechanism, either during its annual session or inter-session meetings, or in writing at any time. With freedom to decide which topics to address in these reports and in its studies, the Expert Mechanism now has the flexibility and capacity to respond to urgent situations and issues in a timely fashion. By providing the

Council and indigenous peoples with detailed expert reports, the Expert Mechanism can give the UN system the factual basis needed to respond seriously and effectively to rights violations and implementation failures. And while the mandate requires the completion of one annual study, the reporting requirement is open-ended and leaves ample room for the Expert Mechanism to report to the Council as often as desired in order to keep the Council fully informed of developments on the rights of indigenous peoples.

### **Identify, disseminate, and promote "good practices and lessons learned regarding the efforts to achieve the ends of the Declaration."**

Second, the Expert Mechanism is required to identify, disseminate, and promote "good practices and lessons learned regarding the efforts to achieve the ends of the Declaration." Lessons learned can include practically any relevant information about implementation and violations of indigenous rights. While reports may be helpful in fulfilling this requirement, the Expert Mechanism can use this part of its mandate to increase awareness among indigenous peoples, governments, and the private sector actors about indigenous peoples' rights, and successes and failures in their implementation. Individual members of the Expert Mechanism could join national or regional meetings of indigenous peoples or indigenous organizations, such as NCAI, to exchange information directly with indigenous leaders. The Expert Mechanism has the power to establish new spaces and seek out new audiences for indigenous voices, and indigenous peoples will want to consider how best

to engage directly with the Expert Mechanism outside of its annual sessions in Geneva.

**Authority to provide technical advice to member states or indigenous peoples**

Third, the Expert Mechanism now has the authority to provide technical advice to member states or indigenous peoples, upon request, to develop domestic legislation and policies relating to the rights of indigenous peoples, including by working through other UN entities. Accordingly, indigenous peoples can now request the Expert Mechanism to provide its expert advice about how states can eliminate harmful elements in domestic law—elements like those that leave indigenous women and girls without meaningful access to justice when they suffer sexual assault or violence—or about how states can develop new laws that will ensure that indigenous women enjoy the full protection and guarantees against all forms of violence and discrimination. To encourage such developments, the Expert Mechanism can connect indigenous peoples working on the issue with UN Women to develop action plans for preventing and responding to violence against women. Establishing these sorts of connections between indigenous peoples and existing UN resources can amplify the effect of the Expert Mechanism’s work.



November 30, 2017, Ottawa, ON, Canada—American Indian women participate as members of the US delegation to the Second Meeting of the Trilateral Working Group on Violence against Indigenous Women and Girls. Pictured left to right: Deborah Parker, Tulalip Indian Tribes; Leanne Guy, Southwest Indigenous Women’s Coalition; Nicole Matthews, Minnesota Indian Women’s Coalition; and, Terri Henry, Eastern Band of Cherokee Indians. Not pictured Lori Jump, StrongHearts Native Helpline.

**Facilitate dialogue between indigenous peoples, governments, and the private sector**

Fourth, the Expert Mechanism can facilitate dialogue between indigenous peoples, governments, and the private sector. While all parties must agree, the Expert Mechanism can, upon the request of indigenous peoples, actively seek to establish acceptable frameworks for dialogue with states or other actors. This sort of constructive, national-level engagement can result in positive solutions for all parties.

**Authority to assist states to follow up and implement recommendations**

Fifth, the mandate grants the Expert Mechanism the authority to assist states, upon request, to follow up and implement recommendations by international human rights bodies, such as those made during the Universal Periodic Review or by treaty bodies, special procedures, or other relevant mechanisms. This provides an important new way to monitor implementation of states’ compliance with international law.

**Coordinate with other UN bodies and procedures**

Sixth, the mandate requires the Expert Mechanism to coordinate with other UN bodies and procedures, especially with the Special Rapporteur on the Rights of Indigenous Peoples and the UN Permanent Forum on Indigenous

Issues. Thoughtful coordination and information sharing between the Expert Mechanism and the Special Rapporteur in particular, with their complementary mandates and competencies, will go very far towards achieving effective implementation and monitoring of the Declaration. For example, with seven members, the Expert Mechanism has more capacity to gather and analyze information and share it with the Special Rapporteur, who can then make and disseminate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the rights of indigenous peoples. As such, indigenous peoples may find it useful to consider joint requests for actions or studies that acknowledge the relative strengths and differing capacities of these two bodies.

**New working methods to accomplish the mandate**

Finally, the budget allocated for the Expert Mechanism authorizes new working methods to accomplish its mandate, with two country visits and an inter-sessional meeting.

The country visits will allow the members of the Expert Mechanism to assess issues at the local level and gather firsthand information to report to the Council and the public. The inter-sessional meeting, like all the public meetings of this body, will also provide important opportunities for indigenous peoples to report on violations of their rights and on the implementation or failure to implement and respect those rights. Indigenous peoples have firsthand knowledge of what issues are most in need of international scrutiny, and it is indigenous peoples who have the detailed, factual information that the Expert Mechanism needs to provide the Council with the best possible reports and advice about how to respond to the pressing international human rights issues of today.



January 20, 2018, Cherokee, North Carolina—Women's March 2018 at the Eastern Band of Cherokee Indians in North Carolina. Pictured left to right Dustin Cooper, Misti Lynn Sneed, and Kennedy Cooper.

# SAVE THE DATE



**Join Us!**

**Attend the UN Commission on the Status of Women 2018 Parallel Event *Wind River: Violence Against Indigenous Women in Rural America***

**March 19, 2018 12:30pm**

Second Floor of the Church Center for the United Nations,  
777 United Nations Plaza New York (44th & 1st)

**Register: <http://bit.ly/2Bi2KQ3>**



The Indian Law Resource Center, National Indigenous Women's Resource Center, and National Congress of American Indians will screen scenes from the feature film *Wind River*, written and directed by Taylor Sheridan. *Wind River* tackles the subjects of sexual assault and missing and murdered indigenous women. A panel discussion will address sexual violence against Native women, including how inadequate law enforcement responses, jurisdictional complexities, and pressures from extractive industries harm Native women in rural areas.



# Safety for Alaska Native Women: Looking Beyond the Immediate Crisis

By Michelle Demmert, Law & Policy Consultant, Alaska Native Women's Resource Center

Historically, Alaska Indian tribes have been treated differently than lower 48 tribes, often making fundamentals of tribal court jurisdiction difficult to understand or ascertain. Such disparate treatment has contributed to high crime and victimization rates which resulted in the FY17 USDHHS appropriations for an Alaska Native Tribal Resource Center on Domestic Violence awarded to the Alaska Native Women's Resource Center (AKNWRC).

I am honored to serve as a Law and Policy Consultant to the AKNWRC and in this capacity excited to assist the national movement in looking beyond rates of violence against Alaska Native women and immediate responses to individual cases. Alaska Native villages are confronting head-on a human rights crisis reflected in the disappearances, murders, trafficking, and unconscionable acts of ongoing violence of women and girls. To address this human rights crisis, we must look deeper and focus reform efforts on fundamental changes required to allow Alaska Native villages to protect women.

## Historical Roots of the Current Crisis

With the passage of the ANCSA in 1971, the only remaining reservation in the state is the Annette Island Reserve in Southeast Alaska. Rather than recognize sovereign tribal lands, ANCSA tasked the for-profit corporations to manage more than 40 million acres of fee land. ANCSA divided the state into 12 regional corporations and over 200 village corporations that would identify with their

regional corporation. Many of these villages had corresponding tribal village governments but, with the passage of ANCSA, no meaningful land base. As a result, unlike most court systems that have defined territorial jurisdiction and personal jurisdiction, Alaska tribal courts generally exercise jurisdiction through tribal citizenship, and not through a geographic space defined as "Indian country" because of ANCSA and in part due to a United States Supreme Court case.

As a result of the U.S. Supreme Court's unfavorable decision in *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998), most of the tribe's traditional territory is not considered "Indian country." Without the ability to tax, without Indian gaming, and without consistent and predictable tribal court appropriations, Alaska tribes lack the revenue typically available to other tribal governments to fund and sustain essential government infrastructure and services. All Alaska tribes are in a similar position, and must find innovative ways to raise governmental revenue and to leverage other resources to sustain their tribal courts, public safety, and victim services. Because of this resource dilemma, available grants for developing and sustaining programs are incredibly important for Alaska tribes.

For these and other reasons, Alaskan tribal governments are not positioned to take advantage of the traditional tools that local governments use to generate revenue. Except for Metlakatla,

Alaska tribal governments have no taxable land base, and subsistence economies—also known as non-cash economies—are unable to generate strong steady revenues in the form of a sales tax, property tax, or other taxes.

Making matters worse, in 2003, Alaska's Senator Ted Stevens singled out Alaska tribes for exceptionally harsh financial restrictions through legislative riders to the FY04 Consolidated Spending Bill (Sec. 112 of HR 2673). The riders eliminated funds to tribal courts and tribal law enforcement programs in Alaska Native villages, and specifically excluded certain Southeast Alaska communities from receiving any Department of Justice funding. Although Congress recently eliminated these restrictions, they set back Alaska tribes even further while they were in place. Without adequate resources, tribal court jurisdiction and law enforcement floundered. In addition, domestic violence and sexual assault survivors located in Alaska Native villages were often left without any means to seek justice for the crime against them because many villages lack law enforcement. When law enforcement does finally arrive, sometimes the evidence is stale or the chain of custody can no longer meet applicable legal standards and the case cannot be prosecuted.

Although, in a PL 280 state, Alaska tribal communities should have access to state justice services, those services are centered in a handful of Alaskan urban areas, making them often more



theoretical than real. As mentioned, many communities have no law enforcement, no 911, no state official they could conceive of raising a complaint to, given the separation of geography, language, and culture. Also, because Alaska is a mandatory PL 280 state and because of other factors identified below, jurisdictional issues in Alaska create extremely dangerous conditions for Alaska Native women living in our small, remote communities.

These Congressional acts and Supreme Court cases have resulted in an absence of an effective justice system that has disproportionately harmed Alaska Native women who are continually targeted for all forms of violence. The Indian Law and Order Commission Report, *A Roadmap for Making Native America Safer* (2013), available at [www.aisc.ucla.edu/iloc/report/](http://www.aisc.ucla.edu/iloc/report/), stated Alaska Native women are over-represented in the domestic violence victim population by 250%; they comprise 19% of the state population, but are 47% of reported rape victims. And among other Indian tribes, Alaska Native women suffer the highest rates of domestic and sexual violence in the country.

### **Indian Law and Order Commission Recommendations**

The Tribal Law and Order Act of 2010 created the Indian Law and Order Commission and authorized the Commission to conduct an extensive study of jurisdictional issues in Alaska. The Commission devoted an entire chapter to Alaska and found that:

“The strongly centralized law enforcement and justice systems of the State of Alaska . . . do not serve local and Native communities adequately, if at all. The Commission believes that devolving authority to Alaska Native communities is essential for addressing local



crime. Their governments are best positioned to effectively arrest, prosecute, and punish, and they should have the authority to do so—or to work out voluntary agreements with each other, and with local governments and the state on mutually beneficial terms.”

While there have been recent gains that benefited Alaska, we still have laws and policies that make support for strong Alaska Native Judicial systems erratic, if not impossible. For example, the U.S. Department of Justice’s support for repeal of the Special Rule for the State of Alaska included in Section 910 of VAWA 2013 was applauded in Alaska, but the issue of Indian country, described further below, remains. In a July 28, 2014, letter from Associate Attorney General Tony West to the Alaska state Attorney General, West reminded him of the state’s obligation to give full faith and credit to tribal court orders of protection. Prior to this time, enforcement and recognition of Alaska tribal court orders was essentially non-existent. Basically, Alaska law required orders of protection issued by tribal courts to be registered with the state before enforcement would be available. As a result of Associate Attorney General West’s assistance, the state of Alaska has recently evaluated its role in supporting Alaska Native protection orders. While still encouraging registration of tribal and foreign protection orders, in 2015, the state recognized that it must enforce unregistered Alaska tribal orders.

Recent studies such as the newly released, National Institute of Justice, Research Report on the Violence Against American Indian and Native Women and Men, document the dire safety circumstances that Alaska Native villages are in because of their unique geographic situation. One startling statistic is that 38% of Native victims are unable to receive necessary services compared to 15% of non-Hispanic white female victims.

### **The Jurisdictional Quagmire in Alaska: Special Domestic Violence Criminal Jurisdiction**

The repeal of Section 910 of VAWA 2013 was a victory as it was a necessary step towards removing a discriminatory provision in the law that excluded all but one Alaska tribe from ever being able to enhance their response to violence against Native women in ways afforded all other federally recognized tribes. Nevertheless, because of the Venetie decision, additional reforms are needed before Alaska tribes will be able to increase safety for Alaska Native women and hold all offenders accountable. This is because Section 904 of VAWA 2013 limits the exercise of the special domestic violence criminal jurisdiction restored to tribes to certain crimes committed in “Indian country.” Yet, at the same time, the state does not have the resources to provide the level of justice needed in tribal communities.

### **Addressing the Crisis: Necessary Reforms to Federal Law**

Congress in part created this crisis and can also resolve it by amending federal Indian law to address this injustice and reflect the reality that village governments are the ones present in villages and as important is the reality that as sovereigns they have the right to protect women and children. Such a legislative fix is

within reach and only requires the will of Congress to act and begin to address this crisis.

The Tribal Law and Order Act Commission, specifically, recommended a legislative fix for the U.S. Supreme Court's Venetie decision by: amending the definitions of "Indian country" to include Alaska Native allotments and native-owned town sites; supporting land into trust applications by Alaska Native tribes; channeling more resources directly to Alaska Native tribal governments for the provision of governmental services; and supporting Alaska Native tribes and villages with the exercise of criminal jurisdiction within their communities.

This reform effort also requires an amendment to the ANCSA definition of "Indian country" to include Alaska Native allotments and Native-owned town sites. The ILOC stated that Congress should overturn the U.S. Supreme Court's decision in *Alaska v. Native Village of Venetie Tribal Government* by amending ANCSA to provide that former reservation lands acquired in fee by Alaska Native villages and other lands transferred in fee to Native villages pursuant to ANCSA are Indian country. ILOC Report at 51. Such a federal amendment could be inserted into pending legislation such as the Native Youth and Tribal Officer Protection Act, the reauthorization of Tribal Law and Order Act, or the reauthorization this year of the Violence Against Women Act. The reform could also be accomplished by amending other federal laws such as the statute defining Indian country, or accomplished through other changes in federal policy allowing the Department of the Interior to accept land into trust for all federally recognized Alaska tribes.

"Problems in Alaska are so severe and the number of Alaska Native communities affected so large, that continuing to exempt the state from national policy change is wrong."

—Indian Law and Order Commission Report (2013)

### **Lack of Indian country status denies Native women access to federal reforms**

As mentioned with the *Native Village of Venetie* case, there is virtually no "Indian country" in Alaska to be afforded the advantages intended within many federal reform efforts to address violence against Native women.

"Alaska's approach to providing criminal justice services is unfair. Alaska Natives, especially those living in rural areas of the state, have not had access to the level and quality of public safety services available to other State residents or that they should rightly expect as U.S. citizens. Given the higher rates of crime that prevail in Alaska Native communities, the inequities are even greater in relative terms. The state of Alaska's overarching lack of respect for tribal authority further magnifies fairness concerns." ILOC Report at 46. But yet without a meaningful and identifiable land base, jurisdictional boundaries will prevent a meaningful solution to solving the public safety crisis in Alaska Native villages.

Congress should overturn the U.S. Supreme Court's decision in *Alaska v. Native Village of Venetie Tribal Government* by amending ANCSA to provide that former reservation lands acquired in fee by Alaska Native villages and other lands transferred in fee to Native villages pursuant to ANCSA are Indian country.

—Indian Law and Order Commission recommendation

We need to begin a dialogue that gets at the heart of community safety issues and concerns. Government-to-government consultations could be held to develop a solution to address the jurisdictional issues found in Alaska. Until the issue of "Indian country" in Alaska is addressed, Alaska tribes, except Metlakatla, are largely left without inclusion in this important legislation that recognizes the inherent authority of a tribe to prosecute violent crimes against women. This situation is especially dire with the economic strain the state of Alaska is currently in. The state lacks resources to address the concerns of the village.

The Violence Against Women Act's Title IX. Safety for Indian Women Section 901. Findings section states: "Congress finds 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." It is time for Congress to uphold this unique legal relationship by clarifying the authority of Alaska Native villages to address violence against Alaska Native women and by supporting the full implementation of this authority with adequate resources.



# Restoration

OF NATIVE SOVEREIGNTY AND SAFETY FOR NATIVE WOMEN

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## RESTORATION OF SOVEREIGNTY & SAFETY MAGAZINE, 2003-2017

Thirteen years ago during the reauthorization process of the Violence Against Women Act, several 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, Clan Star, Inc., 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 National Congress of American Indians Task Force on Violence Against Women and the National Indigenous Women's Resource Center. It is produced and made available during national NCAI conventions and the annual USDOJ Tribal Consultation on VAWA.

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## Restoration

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# Restoration

OF NATIVE SOVEREIGNTY AND SAFETY FOR NATIVE WOMEN

**“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**

*Violence Against Women Is Not Our Tradition*





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