

# DOMESTIC VIOLENCE AND HOUSING ACROSS TRIBAL NATIONS, ALASKA NATIVE VILLAGES AND INDIAN COMMUNITIES



This publication was made possible by Grant Number #90-EV-0452-01-00 from the Administration on Children, Youth and Families, Family and Youth Services Bureau, U.S. Department of Health and Human Services. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the U.S. Department of Health and Human Services.

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# INTRODUCTIONS



## WHAT WE KNOW

Indigenous women are exposed to more violence and more forms of violence, including race-based violence, than the general population;

Indigenous women also face more challenges dealing with effects of intimate partner violence, such as difficulty getting housing, employment and health care.

Domestic and sexual violence is a leading cause of homelessness for women and children, and the need for safe and affordable housing is one of the most pressing concerns for survivors of violence and abuse.

# OVERVIEW OF CURRENT FEDERAL LAWS- HOUSING SPECIFIC

## Native American Housing Assistance and Self-Determination Act (NAHASDA)

- Congressional findings recognized the federal government's unique relationship to tribes and the accompanying responsibility to ensure access to affordable decent homes for Native people.
- Also recognized the rights of tribal self-governance and self determination.
- Creates a single block grant program- Native American Housing Blog Grant (NAHBG)

## Negotiated Rulemaking in NAHASDA

- Must include tribal and HUD representatives
- Negotiated rulemaking must be used to develop any regulations required by amendments to the statute.

NAHBG provides the single largest source of federal funding specifically to be utilized for Native American Housing.

# DOMESTIC VIOLENCE—HOMELESS STATISTICS 2016

- Domestic violence is the leading cause of homelessness
- 50% of homeless population identify domestic violence as the primary cause
- Between 22% and 57% of homeless women report that domestic violence was the immediate cause of their homelessness
- 92% of homeless women have experienced severe physical or sexual abuse at some point in their lives
- 63% of homeless women have been victims of domestic violence
- 38% of domestic violence victims will become homeless at some point in their lives

# HOMELESS IN INDIAN COUNTRY

- 42,100—84,700 AI/AN people would be homeless if a family or friend had not taken them in. (4-7% of pop)
- 1 in 200 AI/AN are homeless compared to 1 in 1,000 in the US overall population
- 17% of AI/AN households include doubled up members
- 19% of AI/AN doubled up households would ask “relatives” to leave, and 80% of people living doubled up would prefer to leave if they could
- Affordable housing and homeless services are insufficient to meet the need

# DOMESTIC VIOLENCE AND HOMELESSNESS: IMPACT ON CHILDREN

1.6 million children experience homelessness each year or 1 in 45 children

2/3rds of the their mothers have histories of domestic violence

Many of these children who witness violence are also victims

Adverse emotional impact of DV are compounded by the severe stress caused by housing instability

# DOMESTIC VIOLENCE SHELTERS

Nationally there are over 1500 domestic violence shelters in the United States

Nationally there are fewer than 60 tribal domestic violence shelters

There are 567 Federally Recognized Tribes

260 Tribal Domestic Violence Programs are funded by FVPSA in FY15



# BARRIERS TO SAFETY

1. Jurisdiction
2. Invisibility
3. Lack of Resources for Direct Services
4. Unavailability of Housing/ Homelessness
5. Substance Abuse
6. Mental Health
7. Prolific Access to Justice Issues
8. Objectification
9. Extreme Poverty
10. Ineffective Law Enforcement Responses

# SAFETY ISSUES

- Confidentiality
- Nuisance laws
- Uninformed, unaccountable systems in place
- Vulnerability in public housing
- Safety in homeless shelters
- Lack of culturally appropriate, trauma-informed approaches

# STORYTELLING

Putting the scarcity in context.

# HISTORICAL CONTEXT

Colonization

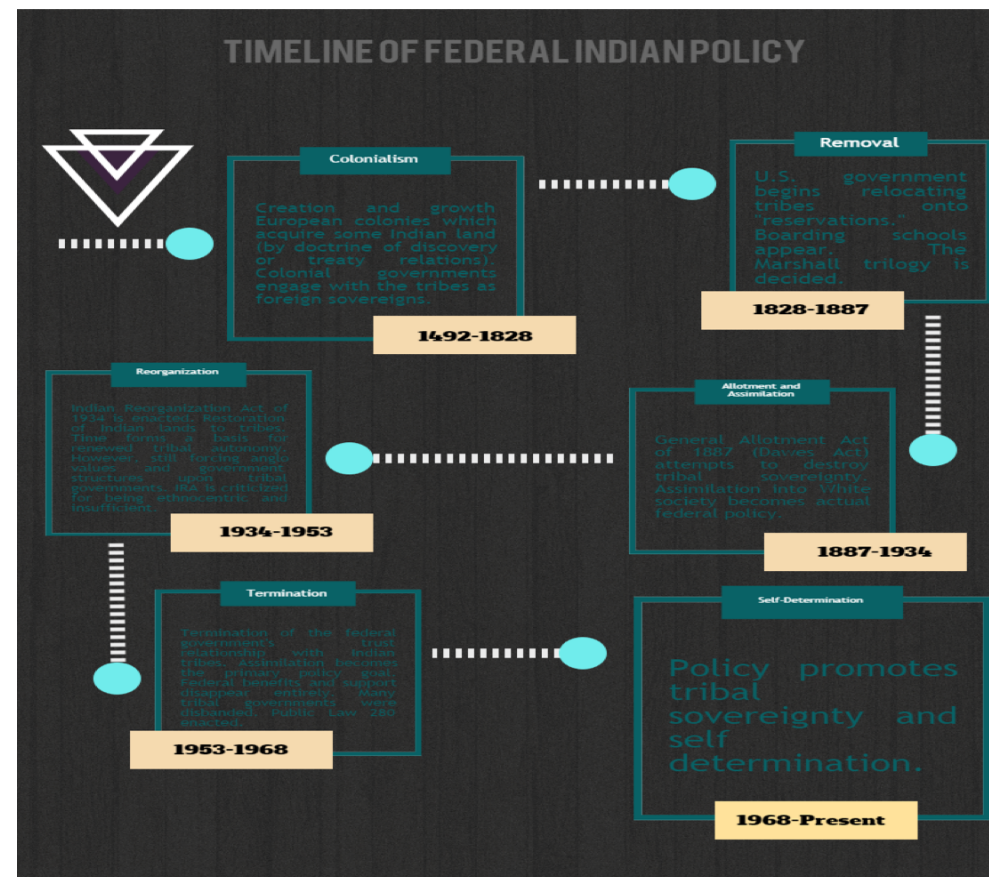
Removal

Allotment and Assimilation

Reorganization

Termination

Self Determination



# WHAT DOES HOME MEAN TO AMERICAN INDIANS/ALASKA NATIVES?



# TRIBAL LAW

## **As sovereigns, tribes may:**

- Enact codes and statutes
- Have separate constitutions
- Define domestic violence
- Issue protective orders
- Enforce protective orders (if jurisdiction)
- Define their membership
- Govern

# FEDERAL LAW

US Constitution (1789)

Major Crimes Act (1885)

Snyder Act (1924)

Public Law 280 (1953)

ICRA (1968)

ICWA (1978)

VAWA (1994, 2005, 2013)

Tribal Law and Order Act (2010)



*We drove west out of New Town, over Lake Sakakawea and into the Four Bears campground. In the summers before the boom, families would come from Williston and Bismarck to fish on the lakeshore. Now there were hundreds of trailers hidden under trees and battened with plywood against the coming cold. A year earlier, I had stood in this camp with a mechanic from Washington, a friendly, jovial man, who marveled at the seeming lack of rules here. "Basically," he said, "you can do anything short of killing somebody."*



# JURISDICTION

## If Jurisdiction has NOT been conferred on state

If the VICTIM is	If the Perpetrator is	If the Crime was...	Then Jurisdiction goes to...
Non-Indian	Non-Indian	Not Applicable	State has jurisdiction.
Indian	Non-Indian	One found in the General Crimes Act (18 U.S.C. 1152)	Federal government has jurisdiction.
Non-Indian	Indian	Listed in Major Crimes Act (18 USC 1153)	Federal government has jurisdiction, state does not. Tribe likely also has jurisdiction.
Non-Indian	Indian	Not defined/punished by federal law applicable in the special maritime and territorial jurisdiction of U.S.	State Law is assimilated.
Non-Indian	Indian	Not listed in Major Crimes Act	Federal government and tribe have jurisdiction.
Non-Indian	Indian	Not defined/punished by federal law applicable in the special maritime and territorial jurisdiction of U.S.	State law is assimilated under 18 USC 13.
Indian	Indian	Listed in Major Crimes Act	Federal government has jurisdiction, state does not. Tribe likely also has jurisdiction.
Indian	Indian	Not defined/punished by federal law applicable in the special maritime and territorial jurisdiction of U.S.	State law is assimilated.
Indian	Indian	Not listed in Major Crimes Act	Tribal jurisdiction is exclusive.

## If Jurisdiction has been conferred on state by PL 280, 18 USC 1162

If the VICTIM is	If the Perpetrator is	If the Crime was...	Then Jurisdiction goes to...
Non-Indian	Non-Indian	Not Applicable	State
Indian	Non-Indian	Committed in Mandatory state	State has jurisdiction.
Indian	Non-Indian	Committed in Option state	State and federal government have jurisdiction. No tribal jurisdiction.
Non-Indian	Indian	Committed in Mandatory state	State has jurisdiction exclusive of federal government, but not necessarily the tribe.
Non-Indian	Indian	Committed in Option state	State has concurrent jurisdiction with the federal courts.
Indian	Indian	Committed in Mandatory State	State has jurisdiction exclusive of federal government, but not necessarily the tribe.
Indian	Indian	Committed in Option State	State has concurrent jurisdiction with tribal courts for all offenses, and concurrent jurisdiction with the federal courts for those listed in 18 U.S.C. § 1153.

## Where Jurisdiction has been conferred by another statute

If the VICTIM is	If the Perpetrator is	If the Crime was....	Then Jurisdiction goes to...
Non-Indian	Non-Indian	Not Applicable	State has jurisdiction.
Indian	Non-Indian	Not Applicable	Unless otherwise expressly provided, (for example in DV), there is concurrent jurisdiction with federal and state courts. Tribe has no jurisdiction.
Non-Indian	Indian	Not Applicable	Unless otherwise expressly provided, state has concurrent jurisdiction with federal and tribal courts.
Indian	Indian	Not Applicable	State has concurrent jurisdiction with tribal courts for all offenses, and concurrent jurisdiction for those listed in 18 USC 1153.

## Special Criminal Domestic Violence Jurisdiction

If the VICTIM is	If the Perpetrator is	If the Crime was...	Then Jurisdiction goes to...
Indian	Non-Indian	As defined in VAWA 2013: Dating violence, domestic violence, and criminal violations of protective orders	Tribe
Indian	Non-Indian	Committed outside of Indian country, between two strangers (sexual assault), committed by a person who lacks sufficient ties to the tribe, constituted child/elder abuse that does NOT involve the violation of a protective order	Start at beginning of document.
Indian	Indian	Not Applicable	Start at beginning of document



## A Defendant's Rights Under the New Law

### A tribe must:

1. Protect rights of defendants under Indian Civil Rights Act, which tracks the U.S. Constitution's Bill of Rights (ie Due Process)
2. Protect rights of defendants described in Tribal Law and Order Act of 2010, by providing effective assistance of counsel, free appointed licensed attorneys for those who cannot afford one, law trained tribal judges who are licensed to practice law, publicly available criminal laws and rules, and recorded criminal proceedings.
3. Include a fair cross-section of the community in jury representation and not systematically exclude non-Indians.
4. Inform defendants ordered detained by tribal court of their right to file federal habeas corpus petitions.

Source:  
<https://www.justice.gov/usam/criminal-resource-manual-689-jurisdictional-summary>





# VIOLENCE AGAINST NATIVE MEN, WOMEN AND CHILDREN

The Scope of The Problem.

**More than 4 in 5 American Indian and Alaska Native women have experienced violence in their lifetime.**

- 56.1% who have experienced sexual violence
- 55.5% who have experienced physical violence by an intimate partner
- 96% of women who have experienced sexual violence were assaulted by at least one interracial perpetrator

**Men experience sexual violence at a rate of 9.9%, experience physical violence by an intimate partner at a rate of 43.2%, and experience psychological aggression by an intimate partner at a rate of 73%.**

**Native women have a greater need for services, but less access to services. Among American Indian and Alaska Native female victims:**

- 41% had physical injuries
- 49% needed services
- 38% needed medical care

**Among American Indian and Alaska Native female victims who needed services:**

- 38% were unable to access services

## THE NUMBERS

For more information, please  
visit [nij.gov](https://nij.gov)

# THE VIOLENCE AGAINST WOMEN ACT

The Protections

# THE VIOLENCE AGAINST WOMEN ACT

Enacted in 1994 (reauthorized in 2000, 2005 and 2013).

- In 2005- Adds Safety for Indian Women Title and includes findings that recognize tribal sovereignty.
- In 2013- partial Oliphant fix
  - Implementing tribes can now prosecute non-natives for the following offenses if committed on tribal land
    - Dating Violence
    - Domestic Violence
    - Violations of a protection order
  - Tribes must implement protections for defendants
  - Does not address
    - Sexual violence
    - Child abuse
    - Crimes committed while interacting with the system (ie: assaulting the arresting officer)

# CORE PROTECTIONS AROUND HOUSING

- Survivors not denied assistance as an applicant
- Survivors not evicted or have assistance terminated due to having been a victim of domestic violence

# VAWA 2013 EXPANDED PROTECTIONS

Emergency Transfers (allows for survivors to move to another safe and available unit if they fear for their life and safety)

- HUD adopted model emergency transfer plan

Protections Against Adverse Effects of Abuse

- Intersectional piece, actually codified (contemplates economic and criminal consequences that a survivor may experience)

Low Barrier Certification Process

- In most instances, a survivor need only self-certify in order to exercise their rights under VAWA.

# APPLICABILITY

VAWA 2013 protects individuals on tribal lands, but the act itself does not list HUD Indian Housing Programs in the list of HUD covered programs (for example those operated with only NAHASDA IHBG funds).

Where it does apply, certain codes are outdated or have provisions in place that contradict with VAWA and the FHA.

This is a vulnerability for Native survivors and their families.

# HOUSING BASICS

One Framework



# HOUSING TYPES

Emergency Shelter (DV or Homeless)

Transitional Housing

Public Housing

Affordable Housing

Housing that is Habitable

“Housing is a highly regulated industry”

# DV Housing First: New Model



©www.wscadv.org

# SAFE HOUSING PARTNERSHIPS

The new website for the  
Domestic Violence and Housing Technical Assistance Consortium

UNDERSTANDING THE INTERSECTIONS

BUILDING PARTNERSHIPS

EMPLOYING KEY APPROACHES

PUBLIC POLICIES

- Explores the intersections between domestic and sexual violence, homelessness and housing
- Provides strategies and case studies for building effective cross-system partnerships
- Includes in-depth resource collections organized around four key approaches to addressing and preventing housing instability among survivors
- Provides easy access to relevant federal laws, regulations, and polices

Have questions? Need TA or training?  
Contact the Consortium directly through the site!



## SHELTER, TRANSITIONAL HOUSING AND HOUSING

Victims of domestic and Sexual violence, stalking, Dating violence and trafficking



PURPOSE	Immediate safety	Longer-term support for homeless victims/survivors	Long-term stability
LENGTH OF STAY	Short term, a few days to several months	Usually 6 to 24 months	Indefinite
BENEFITS	Safety, education, support	Advocacy, support, education on safety, life skills, employment assistance, housing planning, self-sufficiency	Usually no programming or requirements involved, independent living
CHALLENGES	Space, difficult for children, group living, shelter rules, confidentiality; no room or space available	May not be long enough to meet transitional needs of victim/survivor; scarce	Safety planning, finding supportive community; scarce

# OPTIONS FOR INDIGENOUS VICTIMS/SURVIVORS

- ◆ Shelter
- ◆ Stay with relatives (doubling up)
- ◆ Live in car/streets
- ◆ Homeless shelter
- ◆ Live with the violence

“A critical element of safety planning is securing shelter/housing”

# HOUSING NEEDS OF AMERICAN INDIANS AND ALASKA NATIVES IN TRIBAL AREAS

HUD Report from the Office on Native American Programs, January 2017

- Poverty Rates
  - 22% in metropolitan areas
  - 28% in surrounding communities
  - 32% in tribal areas (double the National U.S. Average)
- Study focused on problems and needs in Indian Country
  - System deficiencies (plumbing, heating, kitchen and electrical).
  - Condition problems, including structural deficiencies.
  - Overcrowding, defined by having more than one person per room.

## STUDY FOUND

34% of AI/AN households had one or more physical problems (as compared with only 7 percent for U.S. households)

57% of AI/AN households had one or more identified housing problems of any kind (compared with 40% of U.S. households overall).

As of the 2013-2105 period, it would have been necessary to build around 33,000 new units to eliminate overcrowding of the AI/AN population in tribal areas and another 35,000 new units to replace units that were severely physically inadequate.

“This study generally confirms what has become the conventional wisdom about homelessness in Indian Country; namely that, in tribal areas, homelessness mostly translates into overcrowding rather than having people sleeping on the street. The study estimates that, at the time of the household survey in 2013–2015, between 42,000 and 85,000 people in tribal areas were staying with friends or relatives only because they had no place of their own; that is, they were homeless.”

# RESULTING HARM

For the Domestic or Sexual assault survivor, access to safety means access to shelter/housing.

The shortages illustrated, as well as the information provided regarding the expanded VAWA protections, show that housing in Indian Country is yet another vulnerability that American Indians and Alaska Natives have inherited.

Without adequate housing on tribal lands, victims are often forced to:

- Leave their ancestral home, land of significant cultural meaning
- Leave their tribal community (resembles removal)
- Enter into non-tribal shelters or shelters that cannot address their needs on a peer to peer basis (lacks cultural relevance)
- Return to their abuser



# CULTURALLY RESPONSIVE BEST PRACTICES IN SHELTER ADVOCACY AND HOUSING PROJECTS

Where the Why meets the How.

# STRATEGIES FOR BUILDING EFFECTIVE PARTNERSHIPS

## **Who Should Be At Your Table:**

- Tribal Housing Authorities
- Tribal Housing Advocates
- Tribal Victim Service Providers
- Tribal Council
- Homeless Coalitions
- Anti-poverty Organizations
- Legal Aid/Assistance
- Tenant Groups
- Wrap-Around Services

## ROLE OF ADVOCACY

- Need to educate allies/partners on dynamics of domestic violence especially safety issues
- Advocacy with tribal leadership
- Community assessment and community organizing
- Each survivor is unique, each community is unique
- It's important to remember, good advocacy can make a little funding go a long way
- Training Housing Advocates or Navigators

# BUT, I'M NOT AN ADVOCATE

If you are a housing authority...

- You are in a unique position to see risks
- You are in a unique position to protect

If you are a tribal leader...

- You can pass laws in your tribal codes to protect victims
- You can support your tribal DV programs

If you are in finance...

- How can you use your set of skills to help victims?

**HELPFUL TOOLS**

Want to Help?



25  
YEARS  
NNEDV

# Housing Continuum for Domestic Violence Survivors

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# Objectives

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- Opportunity to learn about the continuum of DV housing options from emergency shelter to housing first, shelter diversion and prevention approaches
- To strengthen DV housing continuum to be trauma-informed, culturally inclusive, safe and supportive programs where DV survivors and their children can heal and thrive

# DVHTAC

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- Domestic Violence & housing Technical Assistance Consortium (DVHTAC)
- Launched in late 2015
- DASH/NASH, NNEDV, NRCDV and CSI, along with partners
- Funded by OVW, FVPSA (HHS), OVC and HUD

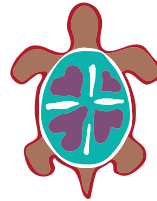


# On our to-do list

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- TA products & ongoing intensive TA in local communities
- Webinars & trainings
- Needs assessment: just completed/being analyzed
- HMIS workgroup
- Website: launched

**Taking a Native-Centered Approach:**  
Supporting Native Survivors of Domestic Violence and Dating Violence



**STRONGHEARTS**  
Native Helpline

Trust. Speak. Heal. Together.



*StrongHearts Native Helpline is made possible by Grant Number 90EV0426 from the Administration on Children, Youth and Families, Family and Youth Services Bureau, U.S. Department of Health and Human Services. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the U.S. Department of Health and Human Services.*

**1-844-7NATIVE**



**STRONGHEARTS**  
Native Helpline

[strongheartshelpline.org](http://strongheartshelpline.org)

# HELPFUL RESOURCES

- National Indigenous Women's Resource Center – **Nicwrc.org**
- StrongHearts Native Helpline- **strongheartshelpline.org**
- National American Indian Housing Council- **www.naihc.net**
- "A Guide to Developing Tribal Shelter and Transitional Housing Programs"- **<http://www.red-wind.net/resources/Transitional-Housing/Creating-Sister-Space.pdf>**
- "Closing the Gap: Integrating Services for Survivors of Domestic Violence Experiencing Homelessness"- **[http://www.air.org/sites/default/files/downloads/report/Closing%20the%20Gap\\_Homelessness%20and%20Domestic%20Violence%20toolkit.pdf](http://www.air.org/sites/default/files/downloads/report/Closing%20the%20Gap_Homelessness%20and%20Domestic%20Violence%20toolkit.pdf)**
- Safe Housing Partnerships- **<https://safehousingpartnerships.org/>**
- National Congress of American Indians - **NCAI.org**
- Tribal Court Clearing House - **tribal-institute.org**
- National Indian Country Clearinghouse on Sexual Assault - **NICCSA.org**
- Tribal Sex Trafficking Resources - **Tribalcoalitions.org**
- Alliance of Tribal Coalitions to End Violence - **ATCEV.org**
- National Institute of Justice: 2010 Findings from the CDC's National Intimate Partner and Sexual Violence Survey - **<https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>**
- Turtle Talk - **turtletalk.wordpress.com**

# QUESTIONS?



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